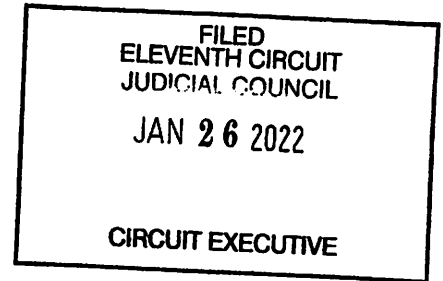


**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

11-21-90095



**IN RE: COMPLAINT OF JUDICIAL
MISCONDUCT OR DISABILITY**

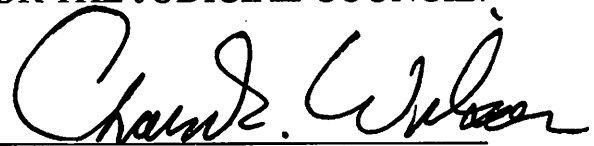
ON PETITION FOR REVIEW

Before: WILSON, ROSENBAUM, and BRANCH, Circuit Judges;
COOGLER and WALKER, Chief District Judges.

Pursuant to 11th Cir. JCDR 18.3, this Judicial Council Review Panel has considered petitioner's complaint filed on September 7, 2021, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on November 8, 2021, and the petition for review filed by petitioner on December 6, 2021. No judge on this panel has requested that this matter be placed on the agenda of a meeting of the Judicial Council.

The Judicial Council Review Panel hereby AFFIRMS the disposition of this matter by Chief Judge Pryor. The petition for review is DENIED.

FOR THE JUDICIAL COUNCIL:


United States Circuit Judge

CONFIDENTIAL

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

NOV 08 2021

David J. Smith
Clerk

**BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT**

Judicial Complaint No. 11-21-90095

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States District Judge
_____ of the United States District Court for the _____ District of
_____, under the Judicial Conduct and Disability Act of 1980, Chapter 16 of
Title 28 U.S.C. §§ 351-364.

ORDER

_____ (“Complainant”) has filed this Complaint against United States District Judge _____ (the “Subject Judge”), pursuant to Chapter 16 of Title 28 U.S.C. § 351(a) and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (“JCDR”).

Background

The record shows that in July 2017 a federal grand jury issued an indictment charging Complainant with one count of conspiracy to commit mail and wire fraud. In September 2017 Complainant, through counsel, filed a motion for a mental and forensic examination, which a magistrate judge granted. At a competency hearing in November 2018, the magistrate judge found Complainant was competent to proceed. In June 2019 Complainant filed a motion to represent herself and to allow her counsel to act as hybrid counsel, and a few months later, the Subject Judge issued an order granting the motion and appointing hybrid counsel.

In November 2019 a superseding indictment was issued that added a charge of attempted witness tampering. Complainant later filed a motion for a bench trial, which the Subject Judge granted. On the first day of trial in February 2020, Complainant signed a revised waiver of jury trial and included “without prejudice, UCC 108.” The Subject Judge stated that “any type of sovereign citizen arguments aren’t going to fly here,” and Complainant responded, “I understand that, Your Honor.” On the second day of trial, the government sought to introduce certain statements Complainant made at an earlier hearing to support the witness-tampering charge, and the Subject Judge stated, “it seems to me you’re -- you can prove your case without this, but you don’t seem to be convinced of that.”

On the third day of trial, after the government rested, Complainant's hybrid counsel made a motion for judgment of acquittal. The Subject Judge stated there was "plenty of evidence she was in a conspiracy," and then overruled the motion. After closing arguments, the Subject Judge noted that court would reconvene the next morning for the verdict, stating, "I've got some thinking to do. I want to think back through the evidence I've heard and the arguments I've heard of [Complainant] and counsel." The next day, the Subject Judge found Complainant guilty as charged in the superseding indictment.

After that, Complainant filed, among other things, a motion for a new trial based on newly discovered evidence, arguing in part that the prosecutors engaged in misconduct and suborned perjury at trial. At the sentencing hearing in September 2020, Complainant argued she had not been competent at the time of a previous conviction, but that she was currently competent. After ruling on various objections, the Subject Judge sentenced Complainant to a total term of 180 months of imprisonment. The Subject Judge then denied Complainant's motion for a new trial and other motions that she had filed.

Complainant appealed and filed another motion for a new trial raising various arguments. The Subject Judge entered an order denying the motion for a new trial and another motion she had filed, finding she was not entitled to the relief sought. She then filed additional motions seeking various types of relief, which the Subject Judge denied.

In September 2021 Complainant filed a 28 U.S.C. § 2255 motion to vacate, set aside, or correct sentence, raising various challenges to her convictions. The government then filed a motion to dismiss the § 2255 motion as premature given that Complainant's direct appeal remained pending. In October 2021 the Subject Judge issued an order granting the motion to dismiss and dismissing the § 2255 motion without prejudice.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judge became disabled during her trial and should have been disqualified because he had a personal bias or prejudice in favor of the prosecution. She contends she reported prosecutorial misconduct to the Subject Judge, but he disregarded the misconduct, failed to forward her grievances to a committee, and contributed to "corrupt legal tactics" by disregarding, condoning, and coving up corruption.

Complainant alleges one of the prosecutors used hand signals, arm gestures, and his stance in way that "signify or appear to represent White Supremacy," and that the Subject Judge "passively responded to [the prosecutor's] urges," noting at one point the prosecutor stated, "You know where we stand." She states she believes the Subject Judge

and one of the prosecutors “share a brotherhood or relationship centered around white supremacy” based on the prosecutor’s “hand and body signals” and the Subject Judge’s rulings against her that were not supported by evidence or law. She alleges the Subject Judge used his office to obtain special treatment for friends, “particularly where the behavior and conduct of the judge towards [a prosecutor] implies friendship and a Brotherhood.” She also states, “White supremacy qualifies as a mental disability.”

Complainant asserts the Subject Judge made several statements “that implied allegiance and partiality,” including, “Oh, I’ve already got enough to find her guilty” after the prosecutor expressed concern about acquiring a conviction, which showed his intent to find her guilty before the proceedings were over. She contends the Subject Judge pretended not to hear a witness’ statement that she had been asked to provide false testimony. Complainant states she moved to recuse the Subject Judge based on his inability to “resist the influence” of the prosecution, and contends the Subject Judge either ignored or denied her motion. She also contends the transcript of the trial shows that the Subject Judge and prosecution worked together to rush the proceedings based on the government’s schedule without regard to her right to a full and fair trial.

Next, Complainant alleges the Subject Judge engaged in *ex parte* communications with the prosecution: (1) regarding his intent to rule in their favor; (2) in connection with a procedural issue when he stated, “I could simply wait until I am acting chief judge and decide on the issue myself”; and (3) when she attempted to address claims of witness tampering at trial. She alleges the Subject Judge conspired with the prosecutors as shown by the fact that all her claims and motions raising prosecutorial misconduct, fraud on the court, and tainted witness testimony were denied and her grievances were disregarded. She contends the Subject Judge: (1) chose not to correct false testimony; (2) “ignored the criteria” for a defense of duress; (3) made an unsupported finding that government witnesses were credible; (4) allowed her to continue speaking at one point knowing she was at risk of incriminating herself; and (5) abused his discretion by failing to order a psychological evaluation.

Complainant alleges the Subject Judge “used an inappropriate term to refer to a class of people on the bench and in an opinion,” which supported that he “exhibits Religious, Ethnic and Cultural Discrimination.” She asserts the Subject Judge “stated in a hostile manner that [she] was prohibited from presenting any ‘sovereign citizen stuff’ as opposed to sovereign-American legal issues.” She states she is uncertain whether the reference to “stuff” was done maliciously, but that the Subject Judge had no basis to prohibit her from raising concerns about jurisdiction. She then alleges the Subject Judge “abused his power and position” in ruling on her habeas petition, asserting he based his ruling on the convenience of the prosecution. Complainant also discusses other state and federal criminal proceedings in which she was involved, and she takes issue with the actions of individuals other than the Subject Judge.

Discussion

Rule 4(b)(1) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, “Allegations Related to the Merits of a Decision or Procedural Ruling,” provides in part that “[c]ognizable misconduct does not include an allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse.” The “Commentary on Rule 4” states in part:

Rule 4(b)(1) tracks the Act, 28 U.S.C. § 352(b)(1)(A)(ii), in excluding from the definition of misconduct allegations “[d]irectly related to the merits of a decision or procedural ruling.” This exclusion preserves the independence of judges in the exercise of judicial authority by ensuring that the complaint procedure is not used to collaterally call into question the substance of a judge’s decision or procedural ruling. Any allegation that calls into question the correctness of an official decision or procedural ruling of a judge — without more — is merits-related.

To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, findings, rulings, and orders in the above-described cases, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Complainant’s remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge suffered from a disability, was biased against her or in favor of the prosecution, engaged in racial, religious, or other discrimination, used his office to obtain special treatment for friends, engaged in improper *ex parte* communications, was part of a conspiracy, treated her in a demonstrably egregious and hostile manner, or otherwise engaged in misconduct.

The allegations of this Complaint are “directly related to the merits of a decision or procedural ruling,” JCDR 11(c)(1)(B), and the Complaint “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists,” JCDR 11(c)(1)(D). For those reasons, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and (iii), and Rule 11(c)(1)(B) and (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge