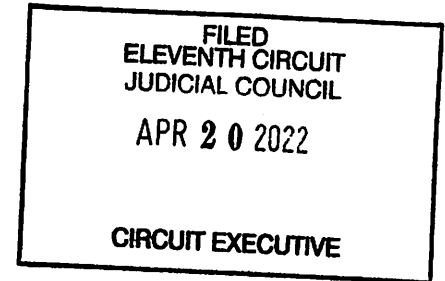


**FOR THE JUDICIAL COUNCIL  
OF THE ELEVENTH CIRCUIT**

**11-22-90005**



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

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ON PETITION FOR REVIEW

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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 January 12, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on February 11, 2022, and the petition for review filed by petitioner on February 25, 2022. 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

FEB 11 2022

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-22-90005

IN THE MATTER OF A COMPLAINT FILED BY:

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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, 28 U.S.C. §§ 351-364.

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**ORDER**

\_\_\_\_\_ (“Complainant”) has filed this Complaint against  
United States District Judge \_\_\_\_\_ ( “the Subject Judge”), un-  
der the Act, 28 U.S.C. § 351(a), and the Rules for Judicial-Conduct  
and Judicial-Disability Proceedings of the Judicial Conference of  
the United States (“Judicial-Conduct Rules”).

## **Background**

The record shows that in March 2021 Complainant filed a notice of removal, in which he stated he was proceeding “In Propria Persona,” and a motion for leave to proceed *in forma pauperis* (IFP). In August 2021 a magistrate judge issued a report recommending that (1) Complainant’s notice of removal and complaint be dismissed with prejudice as frivolous and for failure to state a claim; and (2) his IFP motion be denied as moot. Over Complainant’s objections, the Subject Judge entered an order adopting the report and recommendation, dismissing the case, and denying all pending motions as moot.

Complainant then filed a documents that were construed as a notice of appeal, and this Court later clerically dismissed the appeal for want of prosecution. After that, Complainant filed an application to proceed without prepaying fees or costs, which was construed as a motion for leave to appeal IFP. In January 2022 the Subject Judge denied the pro se IFP motion, finding Complainant’s claims and appeal were frivolous.

## **Complaint**

Complainant states that in January 2022 the Subject Judge denied his application to appeal IFP when he clearly stated in the case that he was “in Propria Persona, and not Pro Se.” He attached the Subject Judge’s January 2022 order and other documents to his Complaint.

## Discussion

Judicial-Conduct Rule 4(b)(1) 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 explains the rationale for this rule as follows:

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.

All of Complainant’s allegations concern the substance of the Subject Judge’s January 2022 order, and they are directly related to the merits of the Subject Judge’s decisions or procedural rulings.

The allegations of this Complaint are “directly related to the merits of a decision or procedural ruling,” under Judicial-Conduct Rule 11(c)(1)(B). For that reason, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.  
Chief Judge