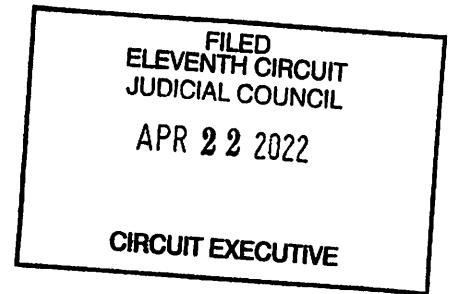


**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

11-22-90006



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

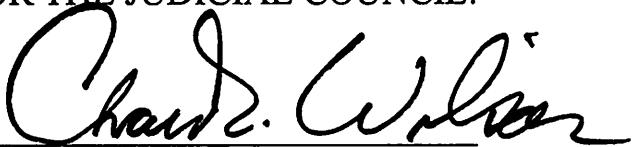
ON PETITION FOR REVIEW

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 January 13, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on March 3, 2022, and the petition for review filed by petitioner on March 7, 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

MAR 3 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90006

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, 28 U.S.C. §§ 351-364.

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 June 2010 a federal grand jury issued a superseding indictment charging Complainant and three codefendants with multiple crimes. The indictment set out that _____ was the “flag state” of a certain cargo ship (“the Vessel”), and it specifically charged Complainant with committing a crime by failing to conduct a complete survey of the Vessel and knowingly making a false official statement that the Vessel complied with a certain treaty.

The case proceeded to trial, and at the conclusion of trial, a jury found Complainant guilty of the two charges. In December 2010 the Subject Judge sentenced Complainant to a total term of five years of probation. Complainant appealed, and in August 2012 this Court affirmed his convictions.

In April 2018 Complainant filed a Petition for a Writ of Error Coram Nobis raising various challenges to his convictions. In June 2018 the Subject Judge issued an order denying Complainant’s petition, finding he offered no sound reasons for failing to seek relief earlier.

In November 2019 Complainant filed another Petition for a Writ of Error Coram Nobis in which he argued that the government fraudulently alleged that the Vessel was operating under the authority of _____ when it knew the Vessel was operating under the authority of _____. The Subject Judge entered an order

denying the petition, finding Complainant had not advanced any additional grounds to grant the extraordinary relief sought.

In December 2019 Complainant filed another Petition for a Writ of Error Coram Nobis in the case. The Subject Judge entered an order denying the petition and warning Complainant that further abusive litigation could result in sanctions. Complainant appealed the denial of this third petition, and this Court later granted the government's motion for summary affirmance, holding Complainant failed to present sound reasons for failing to seek relief earlier and failed to demonstrate any fundamental error that made his prosecution irregular and invalid.

In January 2021 in the original criminal case, Complainant filed a motion for leave to file a coram nobis petition, arguing that exculpatory evidence had been withheld that caused a "jurisdictional error" in the case. Later that month, the Subject Judge issued an order denying the motion for leave to file and directing Complainant to show cause why sanctions should not be imposed. In February 2021 the Subject Judge entered an order imposing sanctions on Complainant and directing the clerk not to accept further pleadings pertaining to his convictions unless signed by a member of the court's bar.

Complaint

Complainant generally argues he should not have been indicted and convicted because the Vessel was "operating under _____ rather than _____." He then alleges the Subject Judge

falsified facts, was aware the indictment was defective, refused “to cooperate in the investigation to correct his error,” violated Complainant’s rights, lacked jurisdiction over Complainant and the Vessel, allowed the prosecution to engage in misconduct, “closed all venues,” and abused his power. Complainant also complains that the Subject Judge denied a motion for referral to a voluntary attorney program he had filed. He asserts there was a “bribery scheme” and alleges the district has “marginalized and discriminated” against “the Cuban community” for more than ten years. Finally, he takes issue with the actions of individuals other than the Subject Judge. He attached documents to his Complaint.

Previous Judicial Complaints

In March 2021 Complainant filed a Complaint of Judicial Misconduct or Disability against the Subject Judge, No. _____. In that complaint, Complainant alleged that the Subject Judge: (1) knew that the Vessel was “flagged and operating under _____ rather than _____” and “knowingly and willfully altered” the Vessel’s country; (2) committed a fundamental error that made his prosecution irregular and invalid; (3) refused to cooperate in the investigation of a complaint; (4) obstructed Complainant’s ability to present his defense by denying him a proper attorney; and (5) failed to disclose exculpatory evidence, rendered a void judgment, and lacked jurisdiction in the case.

In May 2021 Complaint No. _____ was dismissed on the grounds that it was merits-related and based on allegations lacking sufficient evidence to raise an inference that misconduct had

occurred. Complainant filed a petition for review, and the Judicial Council Review Panel affirmed the dismissal and denied the petition for review in August 2021.

In September 2021 Complainant filed a second Complaint of Judicial Misconduct or Disability against the Subject Judge, No. _____. In that complaint, Complainant (1) generally contended that he was not guilty of the charged crimes; (2) asserted it was undisputed that he “was not a _____ surveyor”; (3) asserted it was “undisputed” that prosecutors engaged in misconduct in his case; (4) contended the Subject Judge refused, without good cause, to investigate the prosecutorial misconduct; (5) stated there was a “bribery crime scheme”; and (6) alleged the Subject Judge abused his power, violated his oath of office, and misrepresented the applicable statutes and rules.

In November 2021 Complaint No. _____ was dismissed as merits-related and based on allegations lacking sufficient evidence. The dismissal order also noted that many of Complainant’s allegations had previously been considered in connection with Complaint No. _____. Complainant filed a petition for review, and the Judicial Council Review Panel affirmed the dismissal and denied the petition for review in January 2022.

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.” Furthermore, when a complaint repeats allegations of a previously dismissed complaint, it is appropriate to dismiss those repeated allegations and address only allegations that have not previously been considered. *See* Judicial-Conduct Rule 11(c)(2).

Almost all of Complainant’s allegations previously have been considered in connection with Complaint Nos. _____ and _____. Complainant’s allegation that was not previous raised—that the district “marginalized and discriminated” against “the Cuban community”—is based on allegations lacking sufficient evidence to raise an inference that the Subject Judge engaged in misconduct.

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), and the Complaint “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists,” under Judicial-Conduct Rule 11(c)(1)(D). For those reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge