

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

JAN 24 2023

CIRCUIT EXECUTIVE

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

11-22-90039

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

ON PETITION FOR REVIEW

Before: JILL PRYOR, LUCK, and LAGOA, Circuit Judges; ALTONAGA and BATTEN, Chief District Judges.

Pursuant to 11th Cir. JCDR 18.3, this Judicial Council Review Panel has considered petitioner's complaint filed on March 25, 2022, the order of Acting Chief United States Circuit Judge Adalberto Jordan filed on April 29, 2022, and the petition for review filed by petitioner on May 6, 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 Acting Chief Judge Jordan. The petition for review is DENIED.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

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

11-22-90040

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CIRCUIT EXECUTIVE

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

ON PETITION FOR REVIEW

Before: JILL PRYOR, LUCK, and LAGOA, Circuit Judges; ALTONAGA and BATTEN, Chief District Judges.

Pursuant to 11th Cir. JCDR 18.3, this Judicial Council Review Panel has considered petitioner's complaint filed on March 25, 2022, the order of Acting Chief United States Circuit Judge Adalberto Jordan filed on April 29, 2022, and the petition for review filed by petitioner on May 6, 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 Acting Chief Judge Jordan. The petition for review is DENIED.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

APR 29 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Acting Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-22-90039 and 11-22-90040

IN THE MATTER OF A COMPLAINT FILED BY:

IN RE: The Complaint of _____ against United States Magistrate Judge _____ and 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 Magistrate Judge _____ and United States District Judge _____ (collectively, “the Subject Judges”), under 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 2022 Complainant filed a civil complaint against a federal district judge, alleging in part that the defendant intentionally discriminated against him because he is deaf. He also filed a motion for leave to proceed *in forma pauperis* (IFP). Judge _____ then granted the IFP motion and issued a report recommending that the complaint be dismissed because the defendant was entitled to absolute judicial immunity. Over Complainant’s objections, Judge _____ adopted the report and recommendation and dismissed the complaint.

Complaint

Complainant states the Subject Judges “supported” the defendant in the above-described case:

who was not interested in the Americans with Disabilities Act of 1990 and Communications Act of 1934 with special sections for the deaf, and EEOC federal law. They respected him. They did not want to be involved with his favor “It is legal for an employer to publish job descriptions / advertisements that show preference for hearing and speaking are required for someone from applying for a job.”

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.

To the extent Complainant’s allegations concern the substance of the Subject Judges’ findings, report, and orders in the above-described case, the allegations are directly related to the merits of the Subject Judges’ decisions or procedural rulings. Apart from the decisions or procedural rulings that Complainant challenges, he provides no credible facts or evidence in support of a claim that the Subject Judges 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/ Adalberto Jordan
Acting Chief Judge