

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

JAN 24 2023

CIRCUIT EXECUTIVE

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

11-22-90077

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

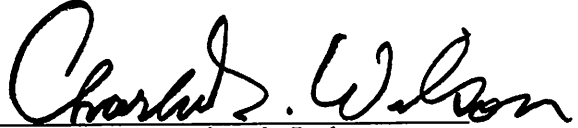
ON PETITION FOR REVIEW

Before: WILSON, NEWSOM, 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 May 23, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on July 15, 2022, and the petition for review filed by petitioner on August 1, 2022. No judge on this panel has requested that this matter be placed on the agenda of a meeting of the Judicial Council.

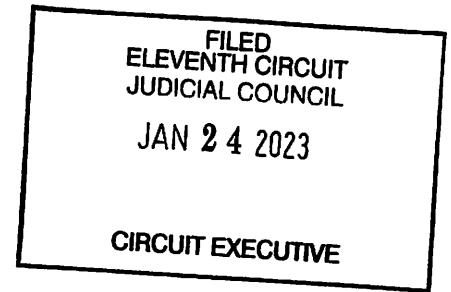
The Judicial Council Review Panel hereby AFFIRMS the disposition of this matter by Chief Judge Pryor. The petition for review is DENIED.

FOR THE JUDICIAL COUNCIL:


United States Circuit Judge

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

11-22-90078



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

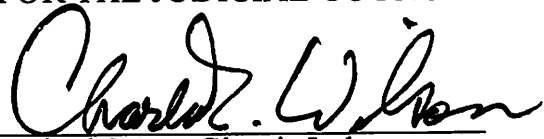
ON PETITION FOR REVIEW

Before: WILSON, NEWSOM, 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 May 23, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on July 15, 2022, and the petition for review filed by petitioner on August 1, 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

JUL 15 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-22-90077 and 11-22-90078

IN THE MATTER OF A COMPLAINT FILED BY:

IN RE: The Complaint of _____ against United States Circuit Judge _____ of the United States Court of Appeals for the _____ Circuit 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 Circuit 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 October 2013 a federal grand jury issued a superseding indictment charging Complainant with two counts of being a felon in possession of a firearm or ammunition. The case proceeded to trial where a jury found him guilty as charged in the superseding indictment. In October 2014 Judge _____ sentenced Complainant to a total term of 144 months of imprisonment. Complainant appealed, and in December 2017 this Court affirmed his convictions. Additional proceedings have taken place in the criminal case.

In May 2021 Complainant filed a petition for writ of habeas corpus, 28 U.S.C. § 2241, and Judge _____ entered an order dismissing the petition as an unauthorized successive petition, as improperly filed, and as legally insufficient. Complainant then filed a motion to reopen, a motion for summary judgment, and a motion for mandamus relief, and Judge _____ entered an order denying the motions, noting they contained “frivolous reasoning” and ignored the basis for the dismissal of his petition and the posture of the case. Complainant appealed and filed a motion for leave to proceed *in forma pauperis* (IFP) on appeal, which the district court denied. In April 2022 Judge _____ issued an order denying Complainant’s IFP motion based on a determination that his appeal was frivolous and denying other motions he had filed on appeal.

Complainant's appeal was later clerically dismissed for want of prosecution.

Complaint

Complainant alleges the Subject Judges aided and showed favoritism to government officials, violated his rights, failed to properly address his motions or to "investigat[e] the matter of law," required him to pay fees when he was financially unable to do so, lacked "the ability to concentrate on their work," and were "inconsistent, indifferent, and incompetent." He also complains that Judge _____ determined his appeal was frivolous without holding a hearing, and he asserts that Judge _____ caused a conflict of interest and is biased, prejudiced, racist, and incompetent. Finally, he states that a magistrate judge refused to issue a report and recommendation on his motions.

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' official actions, rulings, findings, and orders in the above-described matters, the allegations are directly related to the merits of the Subject Judges' decisions or procedural rulings. Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judges were not impartial, were incompetent, had a conflict of interest, were racist, or otherwise 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