

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

11-22-90087

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

SEP 15 2022

CIRCUIT EXECUTIVE

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

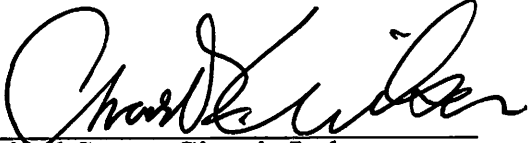
ON PETITION FOR REVIEW

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 June 21, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on June 27, 2022, and the petition for review filed by petitioner on July 8, 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

JUN 27 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90087

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 October 2020 Complainant filed an employment discrimination lawsuit against one defendant. He then filed multiple motions seeking various types of relief, and the defendant filed a motion to dismiss. In August 2021 the Subject Judge entered an order granting the motion to dismiss and dismissing the action with prejudice as frivolous. The Subject Judge also imposed a pre-filing injunction on Complainant based in part on a finding that his claims were meritless and barred by *res judicata*.

Complaint

Complainant takes issue with the Subject Judge's determination that his claims barred by *res judicata*, stating it was "clear" his previous case involved different claims, and he asserts the Subject Judge's "cognitive abilities were so impaired, that she failed to recognize" that *res judicata* did not apply. He also states the Subject Judge "failed to recognize that she never possessed the power . . . to issue a pre-filing injunction against [him] under the All Writs Act." He attached 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.

To the extent Complainant’s allegations concern the substance of the Subject Judge’s order in the above-described case, the allegations are directly related to the merits of the Subject Judge’s decision. Complainant’s remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge suffered from a disability 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