

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

JAN 24 2023

CIRCUIT EXECUTIVE

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

11-22-90123

**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 August 29, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on September 1, 2022, and the petition for review filed by petitioner on September 12, 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:



Andrew Wilson
United States Circuit Judge

SEP 01 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-22-90123

ORDER

An individual has filed a Complaint against a United States district judge under the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351–364, and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States.

Background

The record shows that in March 2018 Complainant filed a lawsuit against multiple defendants raising discrimination claims. He later filed an amended complaint in which he stated he was charged with disorderly conduct and banned from entering a medical facility and a search of court records showed that he was never charged and the ban was illegal. The defendants filed a motion to dismiss the amended complaint. After various proceedings, in August 2018 the Subject Judge issued an order granting the

defendants' motion to dismiss, generally finding Complainant failed to establish he was entitled to relief on his claims.

In May 2019 Complainant filed a motion to reopen the case, contending he had newly discovered evidence establishing that the Subject Judge concealed court documents showing he was never charged with a crime. The Subject Judge denied the motion to reopen, finding the documents were not newly discovered and that, in any event, they would not have changed the disposition of the case. Complainant then filed additional motions to reopen and other motions, which the Subject Judge denied.

In June 2019 Complainant filed a fifth motion to reopen, arguing that counsel for the defendants committed fraud by arguing the amended complaint failed to state a claim. The Subject Judge entered an order denying the motion because Complainant failed to set forth an appropriate reason why the case should be reopened, and the order also directed the clerk to revoke Complainant's permission to file documents electronically due to his abuse of the system and disregard of court orders. In July 2021 Complainant filed another motion to reopen, and the Subject Judge ordered the motion stricken and directed the clerk not to accept any additional filings in the case.

Complaint

Complainant alleges the Subject Judge has intentionally discriminated against him for almost 6 years due to his race and gender "by covering up the fact that she sustained a non-existent

criminal charge and penalty of a ban” in the above-described case. He asserts that the Subject Judge intentionally concealed evidence that “prove[d] his innocence,” and falsely stated that he admitted to the accusation of disorderly conduct. 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 official actions, rulings, findings, and orders in the above-described case, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural

rulings. Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge discriminated against him, concealed evidence, made false statements, 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