

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

OCT 03 2023

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-23-90038 through 11-23-90040

ORDER

Before: NEWSOM, BRANCH, and LAGOA, Circuit Judges;
COOGLER and WALKER, Chief District Judges.

Pursuant to 11th Cir. JCDR 18.3, this Judicial Council Review Panel has considered the materials described in JCDR 18(c)(2), including petitioner's complaint, the order of Chief United States Circuit Judge William H. Pryor Jr., and the petition for review filed by petitioner. 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:

/s/ Kevin C. Newsom

United States Circuit Judge

APR 04 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-23-90038 through 11-23-90040

ORDER

An individual has filed a Complaint against three United States circuit judges 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 July 2020 Complainant filed a civil action against multiple defendants, and after additional proceedings, he filed a second amended complaint. A magistrate judge later issued a report recommending that various counts be dismissed with prejudice and the remaining counts be dismissed without prejudice but without further leave to amend. Over Complainant's objections, a district judge entered an order accepting the report with clarifications and dismissing the second amended complaint. On

appeal, a panel of this Court composed of the Subject Judges affirmed the dismissal of Complainant’s second amended complaint “for the reasons stated in the Magistrate Judge’s well-reasoned report and recommendation.”

Complaint

Complainant alleges the Subject Judges’ issued an “unconscionable” and prejudicial opinion that violated his constitutional rights by failing to provide sufficient reasoning. He also contends the Subject Judges “mad[e] a tacit endorsement of the Magistrate judge in this case,” who “was in the news for a recent decision involving” a former political officeholder, and he appears to allege the Subject Judges engaged in partisan political activity. He “demand[s] a new appeal.”

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.

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainant's allegations concern the substance of the Subject Judges' opinion, the allegations are directly related to the merits of the Subject Judges' decisions or procedural rulings. Judicial-Conduct Rule 11(c)(1)(B). Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judges acted with an illicit or improper motive, engaged in partisan political activity, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge