

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

DEC 07 2023

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90047

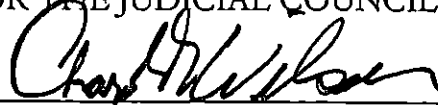
ORDER

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 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:



United States Circuit Judge

MAY 03 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90047

ORDER

Two individuals have 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 2022 Complainants filed a *pro se* civil complaint against multiple defendants. Certain defendants filed motions to dismiss, and the Subject Judge entered an order dismissing the complaint without prejudice as a shotgun pleading and denying the motions to dismiss without prejudice. Complainants then filed an amended complaint, and the defendants moved to dismiss it. Complainants also filed a motion for leave to file another amended complaint, and the Subject Judge denied the motion on the ground that Complainants failed to provide a sufficient

justification for the amendment. Complainants filed motions for reconsideration, which the Subject Judge denied. They also filed a motion for the court to issue a scheduling order, and the Subject Judge denied the motion without prejudice. Afterward, Complainants filed a motion to recuse the Subject Judge on the grounds that she had shown bias and prejudice against them and favoritism towards the defendants. They also filed a motion to supplement the record with newly discovered evidence. The Subject Judge denied both motions.

Complaint

Complainants allege the Subject Judge violated their due-process rights, case law, federal policy, and a certain Federal Rule of Civil Procedure, and they state they believe the Subject Judge is biased against them because they are African American *pro se* litigants. Complainants then complain that the Subject Judge denied various motions they filed, and “[m]ore egregiously and heinously,” denied them discovery and denied their motions to supplement the record and for recusal. They attached a motion they filed in the case to their 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.

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainants’ 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. Judicial-Conduct Rule 11(c)(1)(B). Complainants’ remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge was biased against them 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