

FILED  
ELEVENTH CIRCUIT  
JUDICIAL COUNCIL

DEC 08 2023

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-23-90096

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**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

AUG 18 2023

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-23-90096

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**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 2022 Complainant filed an employment-discrimination complaint against a college and other defendants. One defendant filed a motion to dismiss the complaint. Complainant later filed a motion to amend her complaint to add a state college system as a defendant, and approximately three months and one week later, the Subject Judge granted the motion. The other defendants then filed a motion to dismiss the amended complaint, and Complainant filed a response in opposition. The Subject Judge entered an order granting the defendants' motion to dismiss,

finding the claims were untimely, barred by the Eleventh Amendment, or barred by the doctrine of sovereign immunity. Complainant appealed.

Complainant also filed in the district court a motion to alter or amend the judgment, and a little over four months later, she filed a “Motion to Remind the Court” about her motion to alter or amend. About two-and-a-half months after that, the Subject Judge entered an order denying the motion to alter or amend and denying as moot the Motion to Remind. The Subject Judge found in part that Complainant did not identify a protected class and instead repeated the phrase “disparate impact discrimination” “again and again.”

### **Complaint**

Complainant states the Subject Judge should be disqualified from the above-described case and that dismissal of the case should be reversed because the Subject Judge was biased and prejudiced against her. Complainant alleges the Subject Judge was an employee of the state as a faculty member at a certain university, and she contends the Subject Judge’s employment called her impartiality into question due to a conflict of interest and “a sense of sympathy for defendants.” Complainant also contends the state’s attorney general was counsel for the state defendants and “is the representative attorney for [the Subject Judge] in a potential complaint against her” as a state employee. Complainant further alleges the Subject Judge’s spouse owned a certain business that contracted with the state to perform services at certain universities, causing the Subject

Judge or her spouse to have an interest that could substantially be affected by the outcome of the proceedings.

Next, Complainant complains about delay in the case. She alleges the Subject Judge harassed and attacked her in the order dismissing the case by stating that she repeated a certain phrase “again and again,” and that the statement showed the Subject Judge had a personal bias and prejudice against her. Complainant also states the Subject Judge “is dishonest, and does not have integrity,” “censored” her filings, lied by stating she did not provide any authority for a certain argument, and failed to mention in the dismissal order that she filed a response to a motion to dismiss, which violated her right to be heard. She attached documents to her 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.

Furthermore, Judicial-Conduct Rule 4(b)(2) provides that cognizable misconduct does not include “an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” The “Commentary on Rule 4” states that “a complaint of delay in a single case is excluded as merits-related. Such an allegation may be said to challenge the correctness of an official action of the judge, *i.e.*, assigning a low priority to deciding the particular case.”

The Complaint fails to present a basis for a finding of misconduct. 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. 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 Judge was biased or prejudiced, had a conflict of interest, treated Complainant in a demonstrably egregious and hostile manner, lied, 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