

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

MAY 7 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-23-90128 through 11-23-90131

ORDER

Before: JORDAN, ROSENBAUM, and LAGOA, Circuit Judges; WALKER, Chief District Judge; and COOGLER, District Judge.

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.

Done this 7th day of May, 2024.

FOR THE JUDICIAL COUNCIL:

/s/ Adalberto Jordan

United States Circuit Judge

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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

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ORDER

An individual has filed a Complaint against one United States district judge and 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 2022 Complainant filed a lawsuit against two defendants, a motion to disqualify the Subject District Judge, and a motion for summary judgment. The Subject District Judge later issued an order dismissing the case with prejudice, finding the action was an “attempted end run” around pre-filing-injunction orders issued against Complainant in two other cases. On appeal, a panel of this Court composed of the Subject Circuit Judges vacated the dismissal and remanded for further proceedings because the complaint did not fall within the scope of the pre-filing

injunction. The panel also directed the district court on remand to determine whether Complainant served the defendants.

After the mandate issued, the defendants moved to dismiss the action. The Subject District Judge then entered an order directing the clerk to reopen the case and to reinstate all motions pending when the case was closed. The Subject District Judge also ordered Complainant to file a response to the motion to dismiss. Complainant then filed, among other things, an emergency motion to stay the proceedings pending the Subject District Judge's disqualification from the case. The Subject District Judge denied the motion to disqualify and granted the motion to dismiss. Complainant appealed, and his appeal remains pending.

Complaint

Complainant asserts the Subject Circuit Judges remanded his case "under the false presumption that the Defendants were never served" when they "knew that the defendants were served," and that they "improperly remanded" the case to avoid ruling on his motion for summary judgment. Complainant states the Subject District Judge failed to comply with the Subject Circuit Judges' direction to determine whether he served the defendants, erroneously ordered Complainant to respond to the defendant's motion to dismiss "in a malicious attempt to avoid ruling" on his motion for summary judgment, and erroneously dismissed the case. He states his Complaint pertains to the deliberate delay in ruling on his motion for summary judgment, and he states his motion to disqualify the Subject District Judge was erroneously ruled upon

before dismissal of the case. 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.

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’ official actions, rulings, findings, orders, and opinion on appeal, 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, deliberately delayed ruling on matters, 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