

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

JUN 06 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90158

ORDER

Before: WILSON, ROSENBAUM, and NEWSOM, Circuit Judges; WALKER, Chief District Judge; 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 6th day of June, 2024.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

DEC 19 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90158

ORDER

An attorney 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

Complainant states that the Subject Judge wrote an article for a publication addressing a certain professor’s statements about a terrorist attack, discussing the history of conflicts involving certain land, and suggesting the professor should not be teaching college-age children. The article included the following, “The views expressed in this article are the author’s alone; they are not offered in his capacity as a judge, and they do not represent the opinions of the federal judiciary.”

Complainant states the Subject Judge also wrote an opinion article in a newspaper contending that a certain phrase was a call for genocide and stating that a certain movement was tied to Naziism. The article included the following, “The views expressed in this op-ed are the author’s alone and not offered in his capacity as a judge. They do not represent the views of the federal judiciary.”

Complaint

Complainant alleges the Subject Judge’s statements “have rapidly escalated in their use of inflammatory and overtly anti-Muslim and anti-Palestinian rhetoric.” Complainant contends that in the first article the Subject Judge misrepresented a certain professor’s statement, omitted important context, cited “questionable and selective quotes,” misrepresented the nature of material he quoted to “inflame readers,” and “inserted himself into very public political discussions regarding the legal status of Israeli settlers, and by his own extension, the Israeli-Palestinian conflict.” Complainant states the Subject Judge’s comments “aren’t simply factual and/or historical but reflect his own positions and biases, and how a judge, by asking others to accept his position, is engaging in political activity.”

Complainant then alleges the second article included “escalating inflammatory rhetoric,” contained “several overt comparisons between Palestine advocates . . . and Nazis,” and relied on “common anti-Muslim tropes and unverified claims of a foreign military.” Complainant contends the “extreme nature of [the Subject Judge’s] words speak for themselves.” She requests that the

Subject Judge's statements be reviewed to determine whether they violated the Code of Conduct for United States Judges, and she attached documents to the Complaint.

Discussion

The Complaint fails to allege facts that would support a finding of misconduct. Canon 4 of the Code of Conduct for United States Judges provides that “[a] judge may engage in extrajudicial activities, including law-related pursuits and civic, charitable, educational, religious, social, financial, fiduciary, and governmental activities, and may speak, write, lecture, and teach on both law-related and nonlegal subjects.” The commentary to Canon 4 provides that “[c]omplete separation of a judge from extrajudicial activities is neither possible nor wise; a judge should not become isolated from the society in which the judge lives.” It makes clear that “judges may also engage in a wide range of non-law-related activities.” Canon 5 provides that judges must refrain from political activity, but it uses the term “political” to mean activities related to the election of candidates for public office and supporting organizations. The commentary provides, “The term ‘political organization’ refers to a political party, a group affiliated with a political party or candidate for public office, or an entity whose principal purpose is to advocate for or against political candidates or parties in connection with elections for public office.” Subject to limited exceptions provided by the Code, federal judges—like other persons—enjoy the freedom of speech and the press and the free exercise of religion guaranteed by the First Amendment to the Constitution of the United States.

Complainant's allegations fail to create an inference that the Subject Judge engaged in prohibited political activity, engaged in conduct reasonably likely to have a prejudicial effect on the administration of justice, was biased, violated the Code of Conduct for United States Judges, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For that reason, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge