

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

AUG 12 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90051

ORDER

Before: WILSON, ROSENBAUM, and BRANCH, Circuit Judges; WALKER and BEAVERSTOCK, 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.

Done this 12th day of August, 2024.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

MAY 29 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90051

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 the Subject Judge was assigned to a criminal case in which a former political office holder is one of the defendants. The Subject Judge has issued various orders in the case, and the case remains pending.

Complaint

Complainant states “there may be several indications of partiality and disability of the part of” the Subject Judge toward a defendant in the above-described case warranting her immediate

removal or disqualification from the case. Complainant contends an analysis of the Subject Judge's "decisions to date, appeals, and case outcomes, all of which taken together, present some very seriously disturbing patterns and appearances of bias and lack of competence. Either that, or she is intentionally setting out to pervert justice and the rule of law because she doesn't want to hurt" the defendant, "who is her very best friend and favorite person in all the world."

Complainant notes that the defendant appointed the Subject Judge to the bench, and he asserts that the Subject Judge "has repeatedly demonstrated jurisprudential incompetence, ineptness, and overt partiality with respect to [the defendant], the man who put her in her job." Complainant then discusses decisions the Subject Judge made in the case and in another case, contending certain decisions were "unusual" or "unprecedented," reflected a bias towards the defendant, and "could raise concerns about political influence on the judicial process." Finally, Complainant alleges the Subject Judge has delayed the proceedings in an effort to benefit the defendant and has undermined public confidence in the judiciary, and he requests that she be removed from the case.

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.”

To the extent the Complaint requests that the Subject Judge be removed from the above-described case, neither the Chief Circuit Judge nor the Judicial Council has the authority to take this action under the Rules for Judicial-Conduct and Judicial-Disability Proceedings. *See* Judicial-Conduct Rule 11 (Chief Judge’s Review); Judicial-Conduct Rule 19 (Judicial-Council Disposition of Petition for Review); Judicial-Conduct Rule 20 (Judicial-Council Action Following Appointment of Special Committee).

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, acted with an illicit or improper motive, is incompetent, used her office to obtain special treatment for friends, suffered from a disability, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). *See Straw v. United States*, 4 F.4th 1358, 1363 (Fed. Cir. 2021) ("There is no support whatsoever for the contention that a judge can be disqualified based simply on the identity of the President who appointed him."). Although this complaint process is not the appropriate way to seek review of the Subject Judge's orders, those orders are nevertheless subject to appellate review in the normal course.

For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge