

FILED  
ELEVENTH CIRCUIT  
JUDICIAL COUNCIL

SEP 24 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the  
Eleventh Judicial Circuit

---

Judicial Complaint No. 11-24-90053

---

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 24<sup>th</sup> day of September, 2024.

FOR THE JUDICIAL COUNCIL:

  
United States Circuit Judge

JUN 07 2024

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

---

Judicial Complaint No. 11-24-90053

---

**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 Complainant and his wife filed a *pro se* civil complaint against multiple defendants, and they later filed an amended complaint. The defendants filed motions to dismiss and a motion to stay discovery, and the Subject Judge granted the motion to stay discovery. The plaintiffs then filed various pleadings, including a motion for summary judgment and a motion to lift the stay, and the Subject Judge denied the motion to lift the stay. The Subject Judge later entered an order granting the defendants' motions to dismiss, denying as moot the motion for summary

judgment, and denying as futile a motion to amend the plaintiffs had filed.

### **Complaint**

Complainant alleges the Subject Judge demonstrated prejudice against him and his wife as *pro se* litigants and bias in favor of the defendants. Complainant asserts the Subject Judge “has actively assisted the Defendants in delaying the proceedings and the commencement of discovery by failing to rule on” certain motions, including certain “frivolous and bad faith” motions the defendants filed. Complainant states the Subject Judge “bypassed all the other filings that have been waiting for months for her to rule and denied our motion to lift the stay of discovery.”

### **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.”

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, acted with an illicit or improper motive, assisted the defendants, 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