

FILED  
ELEVENTH CIRCUIT  
JUDICIAL COUNCIL

AUG 12 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-24-90054

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**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 12<sup>th</sup> 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

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Judicial Complaint No. 11-24-90054

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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 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 that in the above-described case and another case involving the same defendant, the Subject Judge “exhibited partisan leanings in favor of the defendant” and “favored [the

defendant] in procedural rulings and in substantive decisions.” He states, “One of the main problems is [the Subject Judge’s] failure to decide motions that have been pending for months,” which caused her to cancel a trial date.

Complainant contends the Subject Judge “is very inexperienced” and that part of her failure to rule on motions “is her own inadequacy as a trial judge and her inexperience” and part “is her desire to benefit” the defendant “by delaying the case as long as possible in violation of the Speedy Trial Act.” Complainant alleges the Subject Judge issued an “unusual” order requiring the parties to write jury instructions based on two hypotheticals, “both of which were misstatements of the law.” Finally, he states the above-described case “clearly needs to be reassigned to another judge,” and 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.

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, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). 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