

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

OCT 16 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90077

ORDER

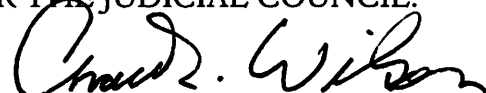
Before: WILSON, JILL PRYOR, and GRANT, Circuit Judges;
WALKER and BEAVERSTOCK, Chief District Judges.

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 16th day of October, 2024.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

JUN 28 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90077

ORDER

An individual has filed a Complaint against a United States magistrate 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 filed a *pro se* civil complaint against two defendants and a motion to proceed *in forma pauperis*. The Subject Judge issued an order and report granting the *in forma pauperis* motion and recommending that Complainant be given time to file an amended complaint because the initial complaint failed to state a claim. Complainant then filed an amended complaint and a second amended complaint. The case remains pending.

The record also shows that, during the pendency of the first case, Complainant filed in state court a *pro se* lawsuit against two defendants, and a defendant removed the case to federal court. Complainant then filed a motion to recuse the Subject Judge and the district judge, alleging she never agreed to have a magistrate judge oversee her case, she had been “met with strict guidelines and seemingly arbitrary decisions,” and the judges had been discourteous and partial. The Subject Judge issued a report stating that Complainant’s allegations appeared to concern the district judge’s actions in the first case and recommending that the case be consolidated with first case and that the motion to recuse be denied. Complainant filed objections to the report and recommendation, and the case remains pending.

Complaint

Complainant states, “Despite my diligent and professional efforts to present my case and adhere to court rules, I have encountered stringent guidelines and seemingly arbitrary decisions. From the outset, [the Subject Judge] has appeared intent on dismissing my case.” Complainant states that when she raised concerns about potential bias, “I was met with further strict guidelines rather than an open discussion.” Complainant alleges the Subject Judge “has continued to exhibit bias, using any minor error on my part as grounds for dismissal,” and that the Subject Judge is attempting to dismiss the case in a way that would prevent Complainant from seeking further redress. Complainant also states that throughout the process, she has “observed a distinct lack of courtesy and

impartiality from the Court, especially towards me as a pro se plaintiff.”

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 Judge’s official actions, rulings, findings, reports, and orders in the above-described cases, 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

otherwise not impartial, treated her in a demonstrably egregious and hostile manner, 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