

FILED  
ELEVENTH CIRCUIT  
JUDICIAL COUNCIL

OCT 16 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-24-90130

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**ORDER**

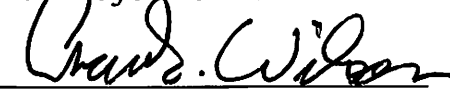
Before: WILSON, ROSENBAUM, and BRANCH, Circuit Judges; WALKER and BEAVERSTOCK, Chief District Judges.

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 16<sup>th</sup> day of October, 2024.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

JUL 11 2024

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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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 Complainant filed an amended *pro se* complaint against an insurance company and other defendants, alleging in part that the company’s employees conspired to “manufacture a liability policy” for an individual involved in an accident, which prevented him from receiving uninsured motorist benefits. After various proceedings, the Subject Judge entered an order dismissing the case for lack of subject-matter jurisdiction because the pleadings raised no substantial federal question. The Subject Judge further found that the case was frivolous, determined that

Complainant was a vexatious litigant, directed him to pay monetary sanctions to the defendants, and permanently enjoined him from filing legal documents or new actions in any forum without leave of court. This Court affirmed.

Afterward, a defendant filed a motion to hold Complainant in contempt for violating the anti-filing injunction by continuing to pursue claims against the defendant. At a hearing, the Subject Judge announced his intention to proceed with criminal-contempt proceedings and provisionally appointed counsel to represent Complainant. Multiple filings submitted by Complainant were then docketed and deemed filed the previous month, including a motion to vacate or modify the injunction. Complainant's motion stated it was based on newly discovered evidence that the state's Department of Public Safety had issued an "administrative decision finding no liability coverage existed for the unlicensed insured under" a certain policy, and he also stated that the district court never issued a ruling on previous motions he filed to vacate the injunction. Complainant then filed a new *pro se* motion, Complainant's appointed attorney moved to strike the motion because it was not filed through counsel, and the Subject Judge granted the motion and ordered the motion stricken. There continues to be activity in the case.

The record also shows that the government filed an Information charging Complainant with nine counts of disobeying lawful orders by filing pleadings without leave of court in the above-described case. The government also filed a motion for an order

directing Complainant to show cause as to why he should not be held in criminal contempt. Complainant then filed multiple motions seeking various types of relief, and the Subject Judge issued an order directing the government to respond to the motions. Complainant appealed the order. The case and appeal remain pending.

### **Complaint**

Complainant alleges the Subject Judge misused his authority and denied Complainant access to the courts by refusing to rule on motions to vacate the injunction in an effort to suppress evidence that the injunction was obtained through fraud. He alleges the Subject Judge acted with an improper motive when he failed to issue an order directing the clerk to docket a motion “to set-up a basis” for the government “to criminalize the pleading that would prevent a ruling and effectively deny the possibility of interlocutory appeal against civil rights.” Complainant also states the Subject Judge “had no basis” for appointing him an attorney in the civil case.

Complainant alleges that the Subject Judge met with attorneys for a defendant and the government “for multiple off-the-record conferences in chambers to discuss procuring a basis for granting” the defendant’s criminal-contempt motion. He alleges the Subject Judge misused his authority to protect the defendant’s attorney by delaying the case and “commencing the criminal action” to avoid ruling on a motion to vacate the injunction and to prevent an interlocutory appeal. Complainant alleges that the Subject Judge

knew there was no subject-matter jurisdiction to issue the injunction because of the decision issued by the Department of Public Safety, and he asserts that the decision required the injunction to be vacated.

Complainant states that the Subject Judge “clearly discriminated against [him] by commencing the investigation and finding probable cause exists for the indictment to proceed,” and that the Subject Judge had “no jurisdiction or cognizable basis” to grant the government’s motion for a show cause order. Complainant also alleges the Subject Judge “used his office to obstruct justice by permitting the U.S. Attorney General’s Office to criminalize the properly submitted motion to vacate the injunction orders after reviewing the prior [Department of Public Safety] administrative decision multiple times.” 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.”

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 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 acted with an illicit or improper motive, had improper *ex parte* communications, discriminated against Complainant, used his office to obtain special treatment for others, abused his power, obstructed justice, 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