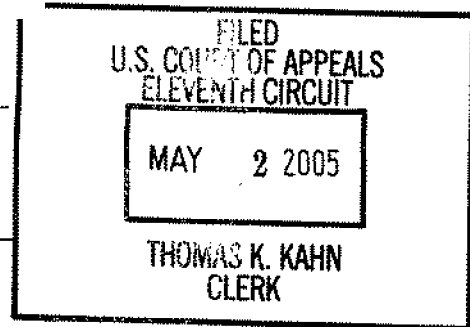


*CONFIDENTIAL*

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 05-0001-SC

IN THE MATTER OF: \_\_\_\_\_



\_\_\_\_\_  
MARCELLUS M. MASON, JR.

28 U.S.C. §§ 351-364  
Rules Of The Judicial Council Of *The* Eleventh Circuit Governing  
Complaints Of Judicial Misconduct Or Disability

\_\_\_\_\_  
ORDER TO SHOW CAUSE

*Beginning in 2001, Mr. Marcellus M. Mason, Jr., has filed a total of twenty-one Complaints of Judicial Misconduct or Disability in this Court. Fourteen of the complaints involve United States District Judge Donald L. Graham of the Southern District of Florida, and stem from several civil cases over which Judge Graham presided and in which Judge Graham issued rulings that were unfavorable to Mr. Mason.*

Of the eight complaints not specifically naming Judge Graham as the

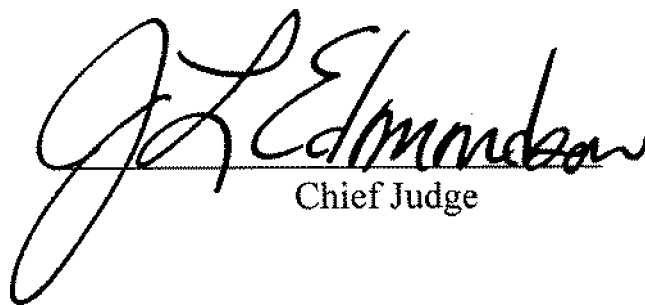
complained--of judge, five name judges of this Court who served on panels reviewing Mr. Mason's appeals -- panels that affirmed decisions and rulings by Judge Graham. None of Mr. Mason's judicial complaints have prevailed. All of the complaints that have been resolved to date have been dismissed for some or all of the following reasons: the complaints were (1) *plainly* untrue; (2) *frivolous*; (3) successive; (4) conclusively refuted by objective evidence; (5) lacking in factual foundation; (5) lacking in evidence sufficient to raise an inference that misconduct had occurred; or (6) directly related to the merits of a decision or procedural ruling. Some of Mr. Mason's most recent judicial complaints indicate that he may be perusing the district court docket sheets and simply filing complaints on any order issued by Judge Graham about which he has not previously complained. Others of Mr. Mason's recent filings are merely restatements of judicial complaints that have already been investigated and dismissed by this Court.

Mr. Mason's conduct raises an inference that he is abusing the judicial complaint procedure, in violation of Addendum III Rule 1(j)(1), by filing complaints that are vexatious, repetitive, harassing, or frivolous. Therefore, Mr. Mason shall file a written response, within fourteen (14) days of the date of this Order, to show cause why his ability to file further Complaints of Judicial Misconduct or Disability should not be limited or restricted by the Eleventh

Circuit Judicial Council in accordance with Rule 1(j)(1). Any documentation accompanying Mr. Mason's response shall pertain only to this Rule 1(j)(1) proceeding and not to the merits of any underlying judicial complaint or appeal previously filed with this Court.

Eight of Mr. Mason's twenty-one judicial complaints are still pending before this Court: Complaint numbers 05-0011, 05-0012, 05-0013, 05-0020, 05-0021, 05-0022, 05-0023, and 05-0036. Six of those complaints name Judge *Graham* while *the* other two name judges of this Court who served on panels that affirmed decisions or rulings issued by Judge Graham. Four of *the complaints are*, on their face, successive. Accordingly, determination of those eight complaints will be held in abeyance pending the resolution of this Show Cause Order.

It is further ORDERED that if Mr. Mason fails to file a verified response within fourteen (14) days of the date of this Order, this matter will be submitted to the Eleventh Circuit Judicial Council for appropriate action.



Chief Judge