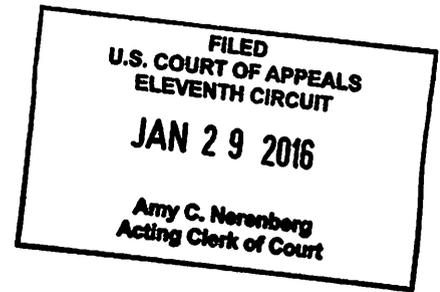


CONFIDENTIAL

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT



Judicial Complaint No. 11-15-90134

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against _____, U.S. Magistrate Judge for the U.S. District Court for the _____ District of _____, under the Judicial Conduct and Disability Act of 1980, Chapter 16 of Title 28 U.S.C. §§ 351-364.

ORDER

_____ (“Complainant”) has filed this Complaint against United States Magistrate Judge _____ (the “Subject Judge”), pursuant to Chapter 16 of Title 28 U.S.C. § 351(a) and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (“JCDR”).

Background

The record shows that in May 2015 Complainant filed a lawsuit against a sheriff’s department, raising various claims. The Subject Judge entered an order directing Complainant to file an amended complaint on the court-approved form. In August 2015 the Subject Judge entered an order stating that on July 29, 2015, the clerk had received a letter from Complainant that had various deficiencies. The Subject Judge directed the clerk to file the document as a Motion for Issuance of Summons and denied the motion because Complainant had not complied with the order directing her to file an amended complaint using the appropriate form.

After that, Complainant filed an amended complaint, alleging false arrest and other claims. The Subject Judge entered an order informing Complainant that it was her responsibility to formally serve the complaint on the defendant and directing the clerk to issue a summons for the defendant and send it to Complainant. On August 26, 2015, the Subject Judge entered an order finding that Complainant’s two documents titled “Motion for Submission _____ Subpoenas,” which were received by the clerk that day, were deficient because Complainant failed to comply with the redaction requirement of Rule 5.2 of the Federal Rules of Civil Procedure. The Subject Judge directed the clerk to return the documents to Complainant without filing. In October 2015 the defendant filed a motion to dismiss the complaint, and Complainant later filed a motion for summary judgment.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant takes issue with the Subject Judge's "refus[al]" to process Complainant's subpoenas on the ground that they listed social security numbers, claiming that the full social security numbers appeared on an arrest report. Complainant asserts that the refusal to accept her subpoenas was illegal, discriminatory, and denied her due process. Complainant then states that she was the victim of a false arrest, and she raises various allegations against individuals who are not federal judges. Complainant attached various documents to her Complaint.

Discussion

Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States provides that cognizable misconduct does not include "an allegation that is directly related to the merits of a decision or procedural ruling." The Rule provides that "[a]n allegation that calls into question the correctness of a judge's ruling, including a failure to recuse, without more, is merits-related." *Id.* The "Commentary on Rule 3" states in part:

Rule 3(h)(3)(A) 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 power by ensuring that the complaint procedure is not used to collaterally attack the substance of a judge's ruling. Any allegation that calls into question the correctness of an official action of a judge—without more—is merits-related.

To the extent Complainant's allegations concern the substance of the Subject Judge's official actions, findings, and orders entered in the case, the allegations are directly related to the merits of the Subject Judge's decisions or procedural rulings. Apart from the decisions or procedural rulings that Complainant challenges, she provides no credible facts or evidence in support of her allegations that the Subject Judge engaged in misconduct.

The allegations of this Complaint are "directly related to the merits of a decision or procedural ruling," JCDR 11(c)(1)(B), and the Complaint "is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists," JCDR 11(c)(1)(D). For those reasons, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and (iii), and Rule 11(c)(1)(B) and (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.



Chief Judge