

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
MAR 30 2016  
Amy C. Norenberg  
Acting Clerk of Court

**CONFIDENTIAL**  
**BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT**

**Judicial Complaint No. 11-16-90006**

**IN THE MATTER OF A COMPLAINT FILED BY \_\_\_\_\_**

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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.

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**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”).

As an initial matter, after Complainant filed her Complaint, she filed a supplemental statement. The filing of the supplemental statement is approved. See 11th Cir. JCDR 6.7.

Background

The record shows that in March 2015 Complainant filed a lawsuit against three defendants raising claims in connection with a traffic stop. She then filed various amended complaints and a motion to proceed in forma pauperis (IFP). In November 2015 the Subject Judge entered an order granting Complainant’s IFP motion and directing her to file a tenth amended complaint containing all of her claims. After that, Complainant filed a tenth amended complaint raising various claims.

The record also shows that in October 2015 Complainant filed an amended complaint against two defendants raising various allegations. The next month, the Subject Judge issued a report recommending that Complainant’s federal claims be dismissed with prejudice for failure to state a claim on which relief could be granted and that her state law claims be dismissed without prejudice. Over Complainant’s objections, the district judge adopted the report and recommendation.

The record shows that in October 2015 Complainant filed a lawsuit against multiple defendants raising claims relating to a traffic ticket she received, and she later

filed a motion to proceed IFP. In November 2015 the Subject Judge entered an order and report in which she granted Complainant's IFP motion, but recommended that her federal claims be dismissed with prejudice as frivolous and that her state law claims be dismissed without prejudice. In December 2015 the district judge adopted the report and recommendation.

### Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant takes issue with the Subject Judge's determination that Complainant's claims were frivolous. She also appears to allege that the Subject Judge used inappropriate language in court filings and obstructed justice by not expediting cases. She states that "[a]ll cases" have been "habitually delayed or denied in this court," and she appears to raise allegations against individuals who are not federal judges

### Supplement

In her supplemental statement, Complainant states that there is "radical extremism" in the "judicial system" in \_\_\_\_\_ and another state "allowing gender based violence." She then appears to allege that the Subject Judge and another judge are taking part in a "counter extremist movement to destroy" Complainant's career and in an "antisemitic [sic] racist conspiracy to knowingly allow civil disorder." She also raises allegations against individuals who are not federal judges.

### 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, reports, and orders entered in the cases, the allegations

are directly related to the merits of the Subject Judge's decisions or procedural rulings. Apart from the decisions or procedural rulings with which Complainant takes issue, 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**.



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Chief Judge