

JAN 26 2017

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint No. 11-16-90107

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against _____, U.S. District 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 District 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 November 2011 Complainant filed a civil action against multiple defendants, raising various arguments and seeking injunctive relief and damages. In January 2012 Complainant filed an amended complaint in which she alleged that biomedical devices were implanted in her without her consent and that she was being subjected to surveillance in violation of her rights. She also filed a motion to proceed in forma pauperis (IFP).

Later in January 2012, the Subject Judge issued an order denying the IFP motion and dismissing the case with prejudice as frivolous, finding that Complainant’s allegations were irrational or wholly incredible. Complainant appealed, and this Court clerically dismissed the appeal for want of prosecution. In January 2015 Complainant filed motions seeking to reopen the case, which the Subject Judge denied. She also filed a motion for reconsideration, which the Subject Judge denied.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant appears to allege that the Subject Judge had improper discussions with parties or counsel for one side in a case and discriminated against litigants or attorneys on account of “race, ethnicity, sex, or other legally protected attribute.” Complainant contends that the Subject Judge knew what she “had been medically subjected to” and that his decision to

dismiss her case was “not impartial” and was “influenced by the use of New Technology used for surveillance by” federal and state agencies.

Complainant asserts that the Subject Judge conspired with government officials and agencies “with the use of the new technology surveillance equipment . . . to maliciously interfere with Complainant receiving necessary and appropriate medical services for a horrific medical injury” She alleges that the Subject Judge, in dismissing her case, discriminated on “account of disability, race, ethnicity, sex or other legal protected attribute[]” and “will retaliate with the use of the new technology.” She also raises other allegations pertaining to the merits of her lawsuit. She attached a document 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 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 claims that the Subject Judge had improper discussions with parties or counsel, discriminated against individuals, was not impartial, was part of a conspiracy, or otherwise 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