

**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

111790058

**FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL**

JUL 25 2018

CIRCUIT EXECUTIVE

**IN RE: COMPLAINT OF JUDICIAL
MISCONDUCT OR DISABILITY**

ON PETITION FOR REVIEW*


Before: TJOFAT, WILLIAMPRYOR, MARTIN, JORDÁN, ROSENBAUM, JULIE CARNES,** and JILL PRYOR, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, RODGERS,** WATKINS, DuBOSE, and HALL, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Tjoflat, William Pryor, Jordán, Land, and Rodgers, the order of Chief Judge Ed Carnes filed on 4 April 2018, and of the petition for review filed by the complainant on 16 May 2018, with no non-disqualified judge on the Judicial Council Review Panel having requested that this matter be placed on the agenda of a meeting of the Judicial Council,

The Judicial Council Review Panel hereby determines that the disposition of this matter was proper and said disposition is hereby **AFFIRMED**.

The foregoing actions are **APPROVED**.

FOR THE JUDICIAL COUNCIL:


United States Circuit Judge

* Chief Circuit Judge Ed Carnes, Circuit Judge Stanley Marcus, and Circuit Judge Charles R. Wilson did not take part in the review of this petition.

** Circuit Judge Julie Carnes and former Chief District Judge M. Casey Rodgers participated in this decision but are no longer members of the Council.

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APR 04 2018

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint Nos. 11-17-90058 through 11-17-90060

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against U.S. Circuit Judges _____,
_____, and _____ of the U.S. Court of Appeals for the _____ Circuit,
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 Circuit Judges _____, _____, and _____ (collectively the “Subject Judges”), 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 December 2014 Complainant filed a fifth amended civil rights complaint raising various claims against multiple defendants. The next month, a magistrate judge issued a report recommending that Complainant’s federal claims be dismissed with prejudice as frivolous or 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, dismissed Complainant’s federal claims with prejudice, and dismissed her state law claims without prejudice. Complainant appealed.

In June 2016 a circuit judge who is not one of the Subject Judges denied multiple motions Complainant had filed, including her motion to proceed in forma pauperis on appeal. After that, the appeal was clerically dismissed for want of prosecution. Complainant filed a motion to reinstate the appeal, and a two-judge panel that did not include any of the Subject Judges granted the motion in September 2016. Complainant then filed a motion to file a supplemental brief, which Judge _____ denied in February 2017.

On the same day, a panel comprised of the Subject Judges issued an opinion affirming the dismissal of Complainant’s claims, holding that the district court did not err in dismissing her federal claims and did not abuse its discretion in dismissing her state

law claims. Complainant then filed a "Motion for Reconsideration Pertaining to 2/9/17 Court Order Denying the Filing of a Supplemental Brief and Motion for Rehearing," which Judge _____ denied. Later, Complainant filed a motion to stay or recall the mandate, which Judge _____ also denied.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant states, "I believe my _____ Circuit Court of Appeal[s] case appears to have been tainted by an alleged Department of Justice (DOJ) investigation against my person that apparently was initiated by the _____ Circuit in January 2017." She also states that there is a "possibility" the investigation was ordered by the district court "in conjunction with the _____ Circuit." Complainant asserts that "it should be clear to any reasonable, prudent person" that the Subject Judges knew about the investigation and waited for it to end before deciding her case.

Complainant states that she was "'demographically' paired with" Judges _____ and _____, and she contends that the probability of having two out of three judges on the panel match her "demographics would be highly unlikely." She states that the "DOJ investigation provided enough evidence that the judges had the ability to see where" she had been born, raised, and lived most of her life. She states that she was born and raised in the same cities where Judge _____ was born and teaches and that she lived most of her adult life in the same city Judge _____ is from. Complainant asserts, "This is merely more than a coincidence, it smacks of the collusion I had originally discussed in my US District Court Brief."

Complainant requests that an "investigation be conducted into the matter concerning" Judges _____ and _____, but states that it is "unclear at this time if [J]udge _____ is involved." Complainant alleges that her constitutional rights were violated by the non-random assignment of judges to her case. Finally, she alleges that the pleadings of another individual in a different case indicate that the Subject Judges "discriminated against other non-criminal pro se litigants on the basis of disability and other factors."

Discussion

Complainant provides no credible facts or evidence in support of her allegations that the Subject Judges caused her to be investigated by the DOJ, engaged in collusion, were not randomly assigned to her appeal, discriminated against litigants, or otherwise engaged in misconduct.

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 that reason, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.

A handwritten signature in black ink, appearing to read "E. A. Tamm", is written over a horizontal line.

Chief Judge