

FILED
JUDICIAL COUNCIL
OF THE
ELEVENTH CIRCUIT

JAN 20 2016

CIRCUIT EXECUTIVE

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

111590101

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

ON PETITION FOR REVIEW*


Before: TJOFLAT, HULL, MARCUS, WILSON, MARTIN, JORDAN, ROSENBAUM, and JULIE CARNES, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, STEELE, RODGERS, WATKINS, and WOOD, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Tjoflat, Hull, Wilson, Steele, and Rodgers, the order of Chief Judge Ed Carnes filed on 16 October 2015, and of the petition for review filed by the complainant on 20 November 2015, 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 and Judge William H. Pryor Jr. did not take part in the review of this petition.

FILED
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ELEVENTH CIRCUIT

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CIRCUIT EXECUTIVE

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

111590102

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

ON PETITION FOR REVIEW*


Before: TJOFLAT, HULL, MARCUS, WILSON, MARTIN, JORDAN, ROSENBAUM, and JULIE CARNES, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, STEELE, RODGERS, WATKINS, and WOOD, Chief District Judges.

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FOR THE JUDICIAL COUNCIL:


United States Circuit Judge

* Chief Circuit Judge Ed Carnes and Judge William H. Pryor Jr. did not take part in the review of this petition.

JAN 20 2016

CIRCUIT EXECUTIVE

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

111590103

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

ON PETITION FOR REVIEW*

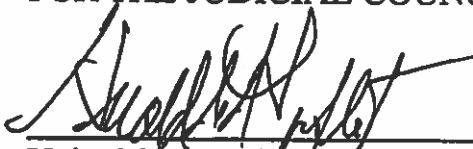
Before: TJOFLAT, HULL, MARCUS, WILSON, MARTIN, JORDAN, ROSENBAUM, and JULIE CARNES, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, STEELE, RODGERS, WATKINS, and WOOD, Chief District Judges.

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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:

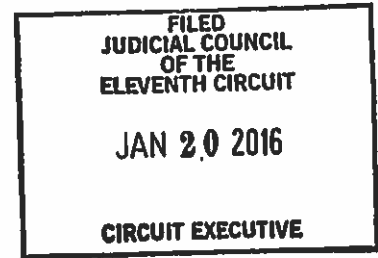


United States Circuit Judge

* Chief Circuit Judge Ed Carnes and Judge William H. Pryor Jr. did not take part in the review of this petition.

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

111590104



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

ON PETITION FOR REVIEW*

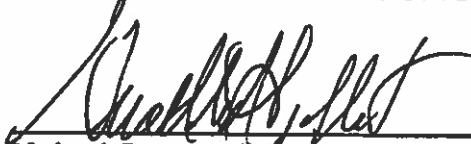
Before: TJOFLAT, HULL, MARCUS, WILSON, MARTIN, JORDAN, ROSENBAUM, and JULIE CARNES, Circuit Judges; MOORE, MERRYDAY, THRASH, BOWDRE, LAND, STEELE, RODGERS, WATKINS, and WOOD, Chief District Judges.

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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 and Judge William H. Pryor Jr. did not take part in the review of this petition.

CONFIDENTIAL

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

OCT 16 2015

Amy C. Nerenberg
Acting Clerk of Court

Judicial Complaint Nos. 11-15-90101 through 11-15-90104

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against U.S. District Judge _____ of the U.S. District Court for the _____ District of _____, and 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 District Judge _____ and 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 March 2003 Complainant filed a civil rights action against _____ and _____, generally alleging that the defendants had violated her constitutional rights. She moved to proceed *in forma pauperis*, and a magistrate judge granted the motion. In January 2004 a district judge dismissed Complainant’s claims against _____ as barred by the Eleventh Amendment but permitted the claims against _____ to proceed.

In April 2004 Complainant filed a “Request for Entry of Default . . . and Request for Summary Judgment” in which she argued that the defendants had failed to respond to her complaint, and she later filed an amended motion requesting default. In July 2004 the case was reassigned to Judge _____ as the presiding district judge. After that, Complainant filed a “Motion for Correction . . .” in which she requested that the clerk provide Judge _____ with her amended motion seeking a default. The district court’s docket sheet shows that the amended motion then was submitted to Judge _____.

In August 2004 _____ filed a motion to dismiss the case, arguing, among other things, that it was not a legal entity that was capable of being sued. After various other filings, in November 2004 Judge _____ entered an order denying Complainant’s Request for Entry of Default, finding that she did not serve _____ with a copy of the

motion or include a certificate of service with the filing and that, in any event, the request failed on the merits. Judge _____ also granted _____ motion to dismiss, finding that the complaint failed to state a claim because _____ was not a proper party defendant. Complainant appealed.

In August 2005 a panel of this Court comprised of Judges _____, _____, and _____ affirmed the dismissal of Complainant's claims against _____, holding that the district court had properly determined that _____ was not a legal entity subject to a lawsuit. In a footnote, the panel pointed out that the district court had also concluded that _____ was not properly served but that the panel did not need to address that issue because dismissal for failure to state a claim was proper.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant asserts that Judge _____: (1) treated a litigant in a demonstrably egregious and hostile manner; (2) delayed the case with an illicit motive in order to assist a defendant; (3) used his office "to offer special treatment when [a] minority" plaintiff files suit against governmental agencies; (4) discriminated against a "minority female litigant on account of race, ethnicity, sex" by manipulating filings and docket entries; and (5) obstructed justice. Complainant alleges that the "Courts (refers to Judge and its Clerks) . . . used its office to offer favor for Defendants through mislabeling, editing, withholding, manipulation and delaying filings and motions." She states that, "[w]hile under control of Judge's, some Clerk employees, ignored, mislabeled, and manipulated some Docket entries, withheld filings and motions which greatly assisted" the defendants, and the "Courts" worked against Complainant.

Complainant specifically alleges that the court "refused to acknowledge" her motions for correction, which showed that judges "most likely were colluding." She takes issue with the listing of the defendants in certain documents. She alleges that the "Courts unfairly allowed" a defendant to have additional time to respond to her motion for summary judgment and "ensured delay after delay" for Complainant's filings, while the defendant's filings were "expedited." She asserts that Judge _____ accepted the defendant's statements as factual, even when contradicted by orders and the docket, and she alleges that Judge _____ showed blatant favoritism toward the defendant. Complainant appears to allege that Judge _____ showed bias by disregarding parts of the order entered by the previously assigned district judge. Complainant asserts that "Courts" refused to acknowledge other filings she submitted.

Complainant generally takes issue with this Court's opinion issued by Judges _____, _____, and _____, contending that it "did not coincide" with her complaint and that Judges _____, _____, and _____ did not review her filings. Complainant asserts that the acts she alleged "would never have happened so blatantly if [Complainant] were not a minority female filing in Forma Pauperis against a

governmental agency.” Complainant describes the reasons for the delay in filing her Complaint of Judicial Misconduct or Disability. She 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 Judges’ official actions, findings, orders, and opinions, the allegations are directly related to the merits of the Subject Judges’ 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 Judge _____ treated litigants in a demonstrably egregious and hostile manner, acted with an improper motive in delaying the case, used his office to obtain special treatment for the defendants, discriminated against Complainant, or was biased against her, or that any of the Subject Judges 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