

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

**111690095**

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

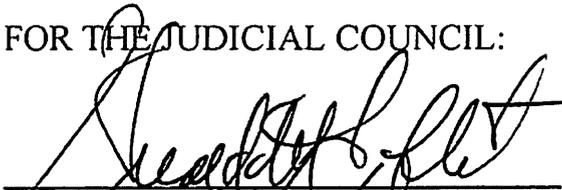
\_\_\_\_\_  
ON PETITION FOR REVIEW\*  
\_\_\_\_\_

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

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Tjoflat, Wilson, Pryor, Bowdre, and Land, the order of Chief Judge Ed Carnes filed on 14 October 2016, and of the petition for review filed by the complainant on 17 November 2016, 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 Chief District Judge Rodgers did not take part in the review of this petition.

**CONFIDENTIAL**

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

OCT 14 2016

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

David J. Smith  
Clerk

**Judicial Complaint No. 11-16-90095**

**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”).

**Background**

The record shows that on May 24, 2016, Complainant appeared before the Subject  
Judge on a warrant issued by the United States District Court for the \_\_\_\_\_ District of  
\_\_\_\_\_ for her failure to appear. On the same day, the Subject Judge entered an order  
directing Complainant to appear before United States District Judge \_\_\_\_\_ in the  
\_\_\_\_\_ District of \_\_\_\_\_ for a contempt hearing on June 10, 2016, and noting that  
her failure to appear could result in the issuance of a bench warrant. Attached to the  
Subject Judge’s order was a March 2016 order from Judge \_\_\_\_\_ transferring a  
warrant for Complainant’s arrest to the \_\_\_\_\_ District of \_\_\_\_\_ for execution.  
Also attached was a Warrant for Arrest signed by the Subject Judge in April 2016,  
directing that Complainant be arrested for her failure to appear at a contempt hearing in  
March 2016.

In June 2016 Complainant filed a “Motion to Quash Arrest Warrant and Motion to  
Seal” in which she argued that the Subject Judge’s arrest warrant was “malicious and  
void” and was used to intimidate, threaten, and coerce her, and she alleged that the  
Subject Judge granted a “favor” to Judge \_\_\_\_\_ and violated her constitutional rights.  
In July 2016 the Subject Judge denied Complainant’s motion, finding that the motion to  
quash was moot because the warrant already had been executed, noting that a district  
judge already considered many of the Complainant’s arguments in a related action, and  
concluding that her arguments were meritless. The docket sheet also shows that in late  
June 2016, the Subject Judge signed a warrant for Complainant’s arrest due to her failure

to appear at the June 10, 2016 contempt hearing, and the arrest warrant was executed on July 7, 2016.

Also on July 7, 2016, Complainant appeared before the Subject Judge on a failure-to-appear warrant from the \_\_\_\_\_ District of \_\_\_\_\_, and an identity hearing was held in accordance with Complainant's request. After the hearing, the Subject Judge entered an order setting out that Complainant failed to appear at the June 10, 2016 contempt hearing and that Judge \_\_\_\_\_ issued a second bench warrant for her arrest, which was transferred to the \_\_\_\_\_ District of \_\_\_\_\_ for execution. The Subject Judge noted that after conducting an identity hearing, the court found that Complainant is the individual for whom the warrant was issued. The Subject Judge ordered that Complainant be removed to the \_\_\_\_\_ District of \_\_\_\_\_ to appear before Judge \_\_\_\_\_.

### Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant describes the circumstances of her arrest on July 7, 2016, and she alleges that she was arrested on the Subject Judge's "malicious" and "void" arrest warrant that lacked probable cause and was not supported by an oath, personal knowledge, or a violation of state law. She describes her appearance before the Subject Judge on July 7, 2016, stating that the hearing was a "sham," the Subject Judge denied her requests for counsel, and he "became enraged" when she requested an identity hearing. Complainant states that her second "false arrest" constituted "judicial misconduct and corruption under the color of law," and she alleges that the purpose of the Subject Judge's and Judge \_\_\_\_\_ "concerted violations" of her civil rights and lengthy detention was to prevent her from complying with an order issued by another court and from bringing Judge \_\_\_\_\_ "illegal conduct to light."

Complainant alleges that the Subject Judge worked "in concert with Judge \_\_\_\_\_, through numerous ex parte communications, to orchestra [sic] my unlawful arrest and detention," and that the Subject Judge violated her constitutional rights and illegally incarcerated her, which was a "gross and most frightening display of [the Subject Judge's] bias and prejudice." She alleges that the Subject Judge: (1) violated the state "Code of Judicial Conduct" and disregarded state "Code/Law"; (2) exhibited a lack of competence; (3) displayed bias or prejudice against her; (4) "engaged in the ongoing harassment and retaliation efforts of" Judge \_\_\_\_\_; (5) "permitted others, to include himself, to manifest bias and prejudice, harass and threaten" her; and (6) "brought the judiciary into disrepute."

Complainant then alleges that by "communicating with Judge \_\_\_\_\_, ex parte, [the Subject Judge] displayed no faithfulness to the law and/or professional competence. He was swayed by the malicious interest of Judge \_\_\_\_\_. [The Subject Judge] conveyed a clear message that a fellow judge in a separate court is in a position to

influence him and his judicial decisions.” Finally, Complainant contends that the Subject Judge “did not require order and decorum in the arrest(s) he initiated or in the proceedings over which he preside[d],” the circumstances of her arrest constituted “a gross abuse of his judicial authority and the law,” and he did not treat her with patience, dignity, and courtesy. 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 Judge’s official actions, rulings, findings, arrest warrants, 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 acted with an illicit or improper motive, was biased or prejudiced against her, exhibited a lack of competence, engaged in improper ex parte communications, 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