

DEC 21 2016

David J. Smith
Clerk

CONFIDENTIAL

BEFORE THE CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint Nos. 11-16-90103 through 11-16-90106

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against U.S. Magistrate Judges _____
and _____ and U.S. District Judges _____ and _____ of 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 Magistrate Judges _____ and _____ and United States District 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 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 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.

In August 2016 Judge _____ issued a report recommending that the complaint be dismissed without prejudice as frivolous and for failure to state a claim on which relief could be granted. Judge _____ stated that Complainant’s allegations were “a haphazard arrangement of facts and events,” that her allegations or the inferences she drew from them were “removed from reality,” and that a complaint is subject to dismissal as frivolous when the claims involve “fantastic or delusional scenarios.” Over Complainant’s objections, Judge _____ adopted the report and recommendation and dismissed the complaint without prejudice.

The record also shows that in November 2015 Complainant filed an amended complaint raising various allegations against multiple defendants. Later that month, Judge _____ issued a report recommending that Complainant’s federal claims be

dismissed with prejudice as frivolous and for lack of jurisdiction, and that her state law claims be dismissed without prejudice. Complainant filed a notice of appeal as to the report and recommendation, and this Court later dismissed the appeal for lack of jurisdiction. In late November 2015, over Complainant's objections, Judge _____ adopted the report and recommendation and dismissed Complainant's claims.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant appears to allege that the Subject Judges engaged in "criminal misconduct in promoting genocide thru lack of prosecution," and she asserts that one of her cases was "illegally dismissed." Complainant also appears to take issue with Judge _____ statements that her claims were "fantastic or delusional" and a "haphazard arrangement of facts and events," alleging those statements constituted "degradation emotional abuse."

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' findings, reports, and orders entered in the cases, 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 claims that 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**.

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

Chief Judge