

CONFIDENTIAL

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

Judicial Complaint No. 11-18-90087

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

OCT 29 2018

David J. Smith
Clerk

IN THE MATTER OF A COMPLAINT FILED BY _____

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.

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”). The Subject Judge retired in _____.

Background

The record shows that in February 2015 a federal grand jury issued an indictment charging _____ with multiple crimes, including child pornography offenses. An arrest warrant was issued, and _____ was arrested in early March 2015. At a bond hearing in April 2015, the Subject Judge considered whether _____ would be a danger to the community if released, noting that after _____ was visited by the FBI, he continued to improperly use the internet. Counsel for the government stated that after the FBI visit, _____ had accessed a computer program and, as of that morning, the government had determined that he was using the program to receive child pornography. The Subject Judge determined that _____ was a danger to the community and ruled that no modifications would be made to the pretrial detention order. After that, there were additional proceedings in the case.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant alleges that in early March 2015 the Subject Judge signed a search warrant pertaining to _____ case without probable cause. She contends that, based on the statements at _____ bond hearing in April 2015, it is “factually clear” that the government did not have any evidence that he had done anything wrong until the day of the hearing. Thus,

Complainant asserts that _____ was arrested and detained without probable cause in March 2015. She attached various documents to her Complaint.

Discussion

Rule 11(e) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States provides, “The chief judge may conclude a complaint proceeding in whole or in part upon determining that intervening events render some or all of the allegations moot or make remedial action impossible.” With respect to this rule, the “Commentary on Rule 11” states in part, “Rule 11(e) implements Section 352(b)(2) of the Act, which permits the chief judge to ‘conclude the proceeding’ if ‘action on the complaint is no longer necessary because of intervening events,’ such as a resignation from judicial office.”

In light of the Subject Judge’s retirement, “intervening events render some or all of the allegations moot or make remedial action impossible,” JCDR 11(e). For this reason, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(2) and Rule 11(e) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint proceeding is **CONCLUDED**. The conclusion of this proceeding in no way implies that there is any merit to Complainant’s allegations against the Subject Judge.



Chief Judge