

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

DEC 06 2018

David J. Smith  
Clerk

**CONFIDENTIAL**

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

**Judicial Complaint No. 11-18-90102**

**IN THE MATTER OF A COMPLAINT FILED BY \_\_\_\_\_**

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**IN RE: The Complaint of \_\_\_\_\_ against \_\_\_\_\_, U.S. District 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 District 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 in July 2018 Complainant filed a lawsuit against a corporate entity in which she appeared to allege that the defendant retaliated against her by filing a police report and sought to obtain certain video footage taken by the defendant’s security cameras. She also filed a motion for leave to proceed in forma pauperis (IFP). The Subject Judge then entered an order granting the IFP motion, but dismissing the complaint without prejudice, stating that the court could find no basis for its jurisdiction in the case.

Complainant then filed, among other things, a motion to amend her complaint to add an additional defendant. In late July 2018 the Subject Judge entered an order dismissing the case without prejudice, finding that, despite Complainant’s amendment, the court could discern no basis for its subject matter jurisdiction in the case. Complainant filed a motion to reopen, which the Subject Judge denied.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant states that she served a subpoena on the defendant for the production of certain evidence, but the defendant failed to comply. She asserts that the Subject Judge “should have at least ordered an investigation by state or federal officials,” and should have entered a final

judgment in her favor due to the defendant's failure to acknowledge the lawsuit. She also takes issue with the actions of other individuals and entities.

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.

All of Complainant's allegations concern the substance of the Subject Judge's official actions, findings, and orders in Complainant's case, and the allegations are directly related to the merits of the Subject Judge's decisions or procedural rulings.

The allegations of this Complaint are "directly related to the merits of a decision or procedural ruling," JCDR 11(c)(1)(B). For that reason, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.

  
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Chief Judge