

**CONFIDENTIAL**

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

AUG 08 2019

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

David J. Smith  
Clerk

**Judicial Complaint No. 11-19-90016**

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

---

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.

---

**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 May 2001 Complainant filed an amended complaint in her employment discrimination lawsuit against \_\_\_\_\_, raising claims stemming from her former employment with \_\_\_\_\_ (\_\_\_\_\_). After various proceedings, former United States District Judge \_\_\_\_\_ granted summary judgment for the defendant. Complainant appealed and moved for leave to proceed in forma pauperis (IFP) on appeal, and in June 2002 this Court denied her IFP motion because the appeal was frivolous. After that, the appeal was clerically dismissed for want of prosecution.

Over 11 years later, in February 2014 Complainant filed a “Petition for Review” in the case, which was docketed as a notice of appeal. The case in the district court was then reassigned to the Subject Judge. In March 2014 this Court dismissed the appeal for lack of jurisdiction, determining the notice of appeal was untimely as to the final judgment and any preceding orders. Complainant then filed in the district court multiple motions seeking various types of relief, which the Subject Judge denied.

In October 2016 Complainant filed a motion to vacate judgment for fraud on the court<sup>1</sup> in which she alleged that Judge \_\_\_\_\_ had referred to her as a “useless

---

<sup>1</sup> Complainant filed similar motions in other cases she had before the Subject Judge. Many of the subsequent motions and orders described herein were filed in multiple cases.

\_\_\_\_\_” at a pretrial hearing in the case.<sup>2</sup> She attached a letter purportedly written to her by Judge \_\_\_\_\_ in March 2009 in which he stated he was remorseful for his “inappropriate inflammatory reference of” her in the pre-trial conference, and that his “personal antipathy toward [her] impaired [his] ability to render fair judgment.”

In January 2017 the Subject Judge entered an order denying the motion to vacate. The order first stated that: (1) the motion to vacate was Complainant’s twenty-third post-judgment effort to revive her claims; (2) her original action in 2000 complained of her 1999 termination from the \_\_\_\_\_; (3) she had filed two additional lawsuits in May 2009 and June 2011 “based on the same termination,” which had been both been dismissed; and (4) after that, she “began a prolific campaign of post-dismissal motions seeking to re-open various of her long-dismissed suits complaining about the termination that occurred at the end of the last century.” The order then stated that Complainant offered no explanation for holding the letter, allegedly written by Judge \_\_\_\_\_, for 7-and-a-half years and 22 motions before she submitted it as a focal point of her motion to vacate. Finally, the order stated that much about the body of the letter was “suspect,” but that even if it were shown to be authentic, it did not establish that a fraud was committed on the court or that Judge \_\_\_\_\_ or any other court official or attorney participated in bribery or fabrication of evidence.

In March 2017 Complainant filed another motion to vacate alleging fraud on the court, arguing in part that the Subject Judge should have recused herself because she served as \_\_\_\_\_ in the district from \_\_\_\_\_ to \_\_\_\_\_. In an earlier filing, Complainant had contended that the Subject Judge had a conflict of interest because a defendant in one of Complainant’s lawsuits previously had represented the Subject Judge in a different lawsuit. In June 2017 Complainant also filed a motion to reopen, arguing that her case should be reopened due to a congressional investigation into the \_\_\_\_\_. Later in June 2017, the Subject Judge entered an order denying the motion to vacate and motion to reopen, generally finding that Complainant had not established that: (1) there was a fraud on the court, (2) the Subject Judge should have recused herself or been disqualified, or (3) an investigation into the \_\_\_\_\_ was a basis for reopening the case.

Complainant filed a “response” to the order in which she, among other things, contended that the Subject Judge had repeatedly and falsely stated that Complainant was complaining about the termination of her employment. In July 2017 the Subject Judge entered an order construing the response as a motion for reconsideration and denying it.

<sup>2</sup> With her Complaint of Judicial Misconduct or Disability, Complainant provided what appears to be a page from the transcript of a March 2002 pre-trial conference. At the conference, counsel for the defendant stated that no settlement demand had been received and asked Judge \_\_\_\_\_, “. . . perhaps you could help \_\_\_\_\_ see a reasonable demand.” Judge \_\_\_\_\_ responded, “I am not going to do this for a useless -- when you say that you are not going to settle this case, period.”

In May 2018 Complainant filed motions seeking the production of documents, which the Subject Judge denied.

The record shows that in May 2009 Complainant filed a lawsuit against the \_\_\_\_\_, raising various claims stemming from her former employment with the \_\_\_\_\_, and the defendant later filed a motion to dismiss the case. In December 2009 the Subject Judge granted the defendant's motion to dismiss, finding that the court lacked subject matter jurisdiction because the action was barred by the applicable statute of limitations. After that, Complainant filed multiple motions seeking various types of relief, which the Subject Judge denied.

The record also shows that in June 2011 Complainant filed another lawsuit against the \_\_\_\_\_, raising claims stemming from her former employment with \_\_\_\_\_, and the defendant later moved to dismiss the case. In November 2011 the Subject Judge granted the motion to dismiss and dismissed the case with prejudice, finding that the claims were barred. After that, Complainant filed multiple motions seeking various types of relief, which the Subject Judge denied.

### Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant alleges that the Subject Judge "engaged in conduct that is prejudicial to the effective and expeditious administration of the business of the courts, undermines public confidence in the integrity and impartiality of the judiciary, creates a strong appearance of impropriety and is therefore by reason 'unable to discharge all the duties' of the judicial office." She states that her complaint arises from Judge \_\_\_\_\_ use of what she contends was a racial slur at a pre-trial hearing in March 2002. Complainant states that, during the "past 17 years and 23 post judgment motions," the Subject Judge "has not acknowledged" the former judge's use of the alleged racial slur, "nor has she expressed at any time that she does not condone" the use of it. Complainant requests the Subject Judge's immediate resignation. She attached various documents to her Complaint. She requests a transfer of the Complaint proceeding to another circuit.<sup>3</sup>

### Discussion

Rule 4(b)(1) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, "Allegations Related to the Merits of a Decision or Procedural Ruling," provides in part that "[c]ognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling, including a failure to recuse." The "Commentary on Rule 4" states in part:

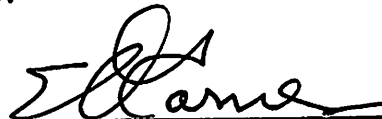
---

<sup>3</sup> Complainant's request for a transfer of her Complaint proceeding to another circuit is DENIED.

Rule 4(b)(1) 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 authority by ensuring that the complaint procedure is not used to collaterally call into question the substance of a judge’s decision or procedural ruling. Any allegation that calls into question the correctness of an official decision or procedural ruling of a judge — without more — is merits-related.

To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, findings, rulings, and orders in the cases, 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 claims that the Subject Judge 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