

CONFIDENTIAL

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

Judicial Complaint No. 11-19-90017

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

AUG 08 2019

David J. Smith
Clerk

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 the Subject Judge has been assigned to multiple lawsuits filed by Complainant. For example, 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, a district judge who is not the Subject Judge granted summary judgment to 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, her 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. 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.¹ In January 2017 the Subject Judge entered an order denying the motion to vacate, stating that: (1) the motion 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 filed two additional lawsuits in May 2009 and June 2011

¹ 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.

“based on the same termination,” and both had 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.”

In March 2017 Complainant filed another motion to vacate alleging fraud on the court, and in June 2017 she filed a motion to reopen the case. Later in June 2017, the Subject Judge entered an order denying the motion to vacate and motion to reopen. Complainant filed a “response” 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.

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. The order stated that the case was Complainant’s third lawsuit in which she attempted to challenge her 1999 “termination.” 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: (1) the Subject Judge’s “vision is impaired and she is unable to perform all the duties of the judicial office”; (2) she “appears to be either blind or hallucinating that [Complainant] continue[s] to complain and challenge an invisible issue”; and (3) she has an “impairment of her cognitive ability, physical and mental disability.” Complainant states that the Subject Judge’s orders and decisions in Complainant’s cases “clearly show that for more than 17 years, [the Subject Judge] has repeatedly stated that [Complainant] continue[s] to challenge [her] termination from employment.” Complainant states, “She is referencing these invisible words and phrases that have never been penned in the civil actions that I have filed.” She attached various documents to her Complaint. She requests a transfer of the Complaint proceeding to another circuit.²

² Complainant’s request for a transfer of her Complaint proceeding to another circuit is DENIED.

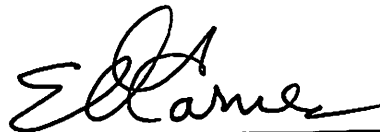
Discussion

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:

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 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 suffers from a physical or mental disability.

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