

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

AUG 08 2019

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint No. 11-19-90056

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 and that Complainant has filed multiple judicial misconduct or judicial disability complaints against the Subject Judge. The details are recounted in the other orders on Complainant’s other complaints.

Complaint

In this Complaint of Judicial Misconduct or Disability, Complainant alleges that the Subject Judge engaged in misconduct “to include: Lack of impartiality, Conflict of interest and Off-the-record, private communication with a litigant about a pending case.” Complainant asserts that: (1) the Subject Judge and others “agreed to hallucinate” that Complainant challenged her termination from employment; (2) the Subject Judge “and her co-conspirators display a similar degree of antagonism”; and (3) it is “obvious” that the Subject Judge “engaged in improper discussions with parties and counsel.” Complainant contends that the Subject Judge’s conduct “undermines public confidence in the integrity and creates a strong appearance of impartiality of the judiciary, impropriety and [sic] is by reason of judicial misconduct.” She attached various documents to her Complaint. She requests a transfer of the Complaint proceeding to another circuit.¹

¹ 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 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. Complainant’s remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge was not impartial, had a conflict of interest, engaged in improper ex parte communication with parties or counsel, was part of a conspiracy, or otherwise 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