

OCT 22 2020

CONFIDENTIAL

BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT

David J. Smith  
Clerk

Judicial Complaint No. 11-20-90065

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

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IN RE: The Complaint of \_\_\_\_\_ against United States Magistrate Judge  
\_\_\_\_\_ of the United States 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 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”).

#### Background

The record shows that in March 2020 Complainant filed a “Motion for a Writ of Injunction” against one defendant in which she noted she was an “Orthodox Jew,” and she also filed a motion to proceed in forma pauperis (IFP) and a financial affidavit. After that, Complainant filed, among other things, a notice of appeal and motions to proceed IFP on appeal. In April 2020 the Subject Judge issued an order stating that an action could not be initiated by filing a motion, directing Complainant to either file a motion for voluntary dismissal or a complaint, and denying her Motion for a Writ of Injunction. The Subject Judge also entered an order denying the motion to proceed IFP on appeal, certifying the appeal was not taken in good faith. This Court later dismissed the appeal for lack of jurisdiction.

In late April 2020 the Subject Judge issued an order denying Complainant’s initial IFP motion without prejudice and directing her to either pay the filing fee or file a proper IFP motion. The order stated the IFP motion had “several inconsistencies,” including that Complainant: (1) stated she owned a car with no value; (2) stated she was not currently employed and wrote “N/A” when asked to provide information about her most recent employer; (3) stated she did not have any cash deposited with a bank, credit union, or savings and loan association, but indicated that she did have funds deposited in such an entity in an IFP motion submitted in a different case; and (4) indicated she owned one piece of property with no value, but indicated she owned two pieces of property in an IFP

motion submitted in a different case. The order reminded Complainant that all information she submitted to the court “must be truthful” and that federal law prohibited submitting false information to the court and provided substantial penalties for false statements and misrepresentations.

Complainant appealed the Subject Judge’s order, and this Court later dismissed the appeal for lack of jurisdiction. In September 2020 the Subject Judge issued an order directing Complainant to show cause why she failed to comply with the order directing her to pay the filing fee or clarify the inconsistencies in her IFP motion. After that, Complainant filed a motion for reconsideration of the order denying her IFP motion. Later in September 2020, the Subject Judge issued an order denying the motion for reconsideration without prejudice because Complainant did not sufficiently explain the inconsistencies in her IFP motion. The Subject Judge also issued a report recommending that the case be dismissed without prejudice due to Complainant’s failure to pay the filing fee and failure to comply with two court orders.

### Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant generally takes issue with the Subject Judge’s April 2020 order denying her IFP motion, contending the Subject Judge tacitly called her a liar and “attempt[ed] to contrive a ‘smear’ campaign against” her and alleging that the order was the result of anti-Semitism. In support of her allegations, Complainant contends the Subject Judge: (1) stated she was not truthful when she correctly responded “N/A” to the question about her employer; (2) tacitly called her a liar as to the value of her automobile; (3) tacitly called her a liar when she had a bank account with a balance of zero; (4) referenced certain property which had no value; and (5) questioned how she had residential property that had no monetary value, when that property had been damaged by a hurricane.

Complainant asserts the Subject Judge has a personal prejudice against her and “relied on someone who views Orthodox Judaism in a prejudicial manner.” She states she was accused of being untruthful and threatened with punishment despite that she made no material misstatements and that the accusation and threat are “direct evidence of Anti-Semitism.” She attached documents to her Complaint.

### 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, rulings, findings, orders, and recommendation in Complainant’s case, 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 was biased against her due to her religion, acted with an illicit or improper motive, 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**.

/s/ William H. Pryor Jr.

Chief Judge