

CONFIDENTIAL

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

Judicial Complaint No. 11-20-90079

**FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT**

NOV 18 2020

**David J. Smith
Clerk**

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States District 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.

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 February 2020 Complainant filed a lawsuit against multiple defendants, and she filed amended complaints in March and April 2020. After that, certain defendants filed motions to dismiss the amended complaint and a motion to stay discovery pending a ruling on the motions to dismiss. The Subject Judge granted the motion to stay discovery. In May 2020 the Subject Judge issued an order directing Complainant to show cause why certain defendants should not be dismissed, as there was no indication service had been perfected on those defendants and the deadline for service had passed.

The next month, Complainant filed a response in which she stated, among other things, that the defendants should not be dismissed from the case because they violated her human rights. On the same day, Complainant filed a Motion for Default Judgment and an Entry of Default, arguing certain defendants had failed to appear or otherwise defend the case. Complainant’s request for a clerk’s entry of default was declined because proper service was not perfected, and the Subject Judge issued an order denying the motion for default judgment, noting that, without service, the court lacked jurisdiction to enter any type of judgment. The Subject Judge also issued an order dismissing certain defendants from the case, finding Complainant failed to show good cause for her failure to serve those defendants.

Later in June 2020, the Subject Judge issued an order granting the remaining defendants' motions to dismiss, finding that Complainant's second amended complaint failed to state a claim on which relief could be granted, certain claims were also frivolous and time-barred, and the court lacked jurisdiction to consider other claims. Complainant filed a notice of appeal and a motion for leave to appeal in forma pauperis (IFP), and the Subject Judge denied the IFP motion, finding Complainant had the means to pay the appellate filing fee and her appeal was not brought in good faith.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant contends a default judgment should have been entered as to certain defendants, and she states the Subject Judge "block[ed] her" by stating she did not serve those defendants when she had proof that she had served them. Complainant alleges the Subject Judge used his office to obtain special treatment for friends or relatives and engaged in improper ex parte communications by stating that Complainant did not serve an individual by a certain date. Complainant also states the Subject Judge: (1) "is hard on" pro se litigants; (2) falsified facts; (3) "intentionally overlooked everything [she] gave"; and (4) failed to list all of the parties to the case. 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, findings, rulings, and orders 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 used his office to obtain special treatment for friends or relatives, engaged

in improper ex parte communications, falsified facts, 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