

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

NOV 25 2020

David J. Smith  
Clerk

**CONFIDENTIAL**

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

**Judicial Complaint Nos. 11-20-90084 through 11-20-90086**

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

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IN RE: The Complaint of \_\_\_\_\_ against United States Magistrate Judge \_\_\_\_\_ and United States District Judges \_\_\_\_\_ and \_\_\_\_\_ 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 \_\_\_\_\_ and United States District Judges \_\_\_\_\_ and \_\_\_\_\_ (collectively, the “Subject Judges”), 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”).

As an initial matter, after Complainant filed her Complaint, she filed a supplemental statement. The filing of the supplemental statement is permitted. See 11th Cir. JCDR 6.7.

Background

The record shows that in August 2017 Complainant filed an amended civil complaint against two corporations and a motion for leave to proceed in forma pauperis (IFP), and a magistrate judge who is not one of the Subject Judges granted the IFP motion. Complainant later filed amended complaints, and a district judge who is not one of the Subject Judges ultimately dismissed the amended complaints. Complainant appealed, and in January 2019 this Court clerically dismissed the appeal due to her failure to pay the fees or to file a motion to proceed IFP in the district court.

In December 2019 Complainant filed in the district court a motion for the appointment of counsel. In June 2020 the case was reassigned to Judge \_\_\_\_\_ as the magistrate judge, and Judge \_\_\_\_\_ issued an order denying the motion to appoint counsel because Complainant’s claims had been dismissed and the case was closed. After that, Complainant filed a notice of change of address and a motion to proceed IFP,

and in August 2020 Judge \_\_\_\_\_ issued an order denying the IFP motion as moot because Complainant's claims had been dismissed and the case was closed.

In October 2020 this Court reinstated Complainant's appeal and directed the district court to revisit the IFP motion or to instruct Complainant to refile the motion. A district judge who is not one of the Subject Judges then entered an order directing the clerk to reopen the case and directing Complainant to file a renewed motion to proceed IFP by October 30, 2020. In November 2020 the district judge entered an order dismissing the case without prejudice due to Complainant's failure to comply with the court's order.

The record shows that in November 2019 Complainant filed a prisoner civil rights action against three defendants. The next month, the court issued a "Related Case Order and Track One Notice" directing the parties to file within 14 days a certification as to whether the instant action should be designated as a similar or successive case pursuant to a local rule.

The next day, Judge \_\_\_\_\_ issued an order dismissing the case without prejudice, stating that Complainant failed to pay the filing fee or move to proceed IFP, the complaint was not written on the required form, and the complaint failed to contain information required in a civil rights complaint. After that, Complainant filed a notice of change of address and a motion to appoint counsel. In January 2020 Judge \_\_\_\_\_ issued an order denying the motion to appoint counsel, noting the case had been dismissed.

The record shows that in February 2020 Complainant filed a prisoner civil rights action against three defendants and a motion to proceed IFP. After that, Complainant filed an amended complaint, the court issued a Related Case Order, and Complainant filed a second amended complaint. On February 25, 2020, Judge \_\_\_\_\_ issued an order dismissing the case with prejudice, finding Complainant's second amended complaint failed to state a claim on which relief could be granted.

Complainant then filed, among other things, a Notice of Pendency of Other Actions and a motion requesting to waive service of her notice on the defendants. Judge \_\_\_\_\_ issued an order denying the motion to waive service because the case had been dismissed. Complainant appealed and moved to proceed IFP on appeal, and Judge \_\_\_\_\_ denied the IFP motion, finding the appeal was not taken in good faith. This Court later dismissed the appeal as frivolous.

The record also shows that in April 2020 Complainant filed a lawsuit against two defendants, a motion to proceed IFP, and a motion for the appointment of counsel. The court then issued a Related Case Order directing her to review and certify compliance with a local rule. On April 30, 2020, Judge \_\_\_\_\_ issued an order directing

Complainant to show cause within 15 days why she had not complied with the Related Case Order. On May 20, 2020, Judge \_\_\_\_\_ issued an order dismissing the case without prejudice due to Complainant's failure to respond to the show cause order.

Complainant filed a notice of appeal and a motion to proceed IFP on appeal, and in July 2020 Judge \_\_\_\_\_ denied the IFP motion. After that, Complainant filed another motion for leave to proceed IFP on appeal, a response to the show cause order in which she stated she had not received the order in a timely manner, and a notice of pendency of related cases. Judge \_\_\_\_\_ then entered an order denying the IFP motion, noting the court had denied the previous IFP motion. This Court later dismissed the appeal as frivolous.

### Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judges were not impartial, ignored her motions for appointment of counsel, violated the "Judicial Canons," and treated her as if she was a licensed attorney with access to legal materials. She states she experienced "abuses, unfairness, [and] injustice" in her cases. Complainant then states that an unnamed magistrate judge in the first case "may have falsely stated" that she did not provide the court with a change of address when she had done so.

Complainant also states that: (1) Judge \_\_\_\_\_ ordered her to respond to a "delay motion" but dismissed her case before she had a chance to respond; (2) Judge \_\_\_\_\_ issued an order in which he dishonestly stated that she failed to respond to court orders; and (3) Judge \_\_\_\_\_ directed her to respond to an order but dismissed her case before receiving her response, improperly screened her complaint, and ignored significant facts.

### Supplement

In her supplemental statement, Complainant states the district court's docket is missing a related case order and notice she completed, as well as her response to a show cause order. She states that either the clerk or Judge \_\_\_\_\_ removed the papers and did not file them on the docket, and she asserts that this constitutes corruption and dishonesty.

### 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 Judges' official actions, findings, rulings, and orders in the above-described cases, the allegations are directly related to the merits of the Subject Judges' decisions or procedural rulings. Apart from the decisions or procedural rulings that Complainant challenges, she provide no credible facts or evidence in support of her claims that the Subject Judges were not impartial, made dishonest statements, violated the Code of Conduct for United States Judges, 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