

United States Court of Appeals for the Federal Circuit

UNDER SEAL (NON-PUBLIC ORDER)

IN RE COMPLAINT NO. 23-90015

Before MOORE, *Chief Judge*.

ORDER

By order of March 24, 2023, a special committee composed of Chief Judge Moore, Judge Prost, and Judge Taranto (the Committee) was appointed to investigate and report its findings and recommendations with respect to a complaint identified against Judge Newman to the judicial council.

On April 7, 2023, the Committee issued an order which concluded that based upon its investigation and direct observations of Judge Newman's behavior, there is a reasonable basis to conclude she might suffer a disability that interferes with her ability to perform the responsibilities of her office. The Committee retained an expert who recommended that Judge Newman undergo medical testing and evaluation. The Committee found that such an examination is warranted to facilitate the Committee's investigation. An opportunity to consult with the expert was provided to Judge Newman. The Committee requested that Judge Newman inform the Committee by April 11, 2023 whether she would comply and make herself available for the needed examination to secure expedited medical appointments. The Order further informed Judge Newman that "[f]ailure to respond to this order by 3:00 pm on April 11, 2023, will be deemed failure to comply." And further

that failure to comply without good cause shown may result in the Committee seeking to expand the scope of the investigation to include an inquiry into whether the subject judge's non-cooperation constitutes misconduct under Rule 4(a)(5) of the Rules for Judicial Conduct and Judicial Disability Proceedings. Judge Newman failed to respond to the Committee's order.

Judge Newman has also refused to accept service of orders issued under Rule 15(a)(1)(b), stating that she "was not interested in receiving any documents" regarding this matter. She likewise instructed the mailroom at her residence to refuse to accept the orders. The Committee has referred these refusals to be included in the investigation regarding Judge Newman's failure to cooperate.

Pursuant to Rule 13(a) of the Rules for Judicial Conduct and Judicial Disability Proceedings, the Committee has requested that the scope of the investigation be expanded to investigate whether Judge Newman has failed to cooperate in violation of the Rules. See Rule 4(a)(5) of the Rules for Judicial Conduct and Judicial Disability Proceedings ("Cognizable misconduct includes refusing, without good cause shown, to cooperate in the investigation of a complaint or enforcement of a decision rendered under these Rules").

Based on this information, I conclude there is sufficient cause to believe that Judge Newman has failed to cooperate constituting additional misconduct. I accordingly expand the scope of the investigation to include an investigation into this newly identified matter. Pursuant to Rule 15(a)(1)(B), a copy of this email will be mailed to Judge Newman.

IT IS SO ORDERED.

IN RE COMPLAINT NO 23-90015

4/13/2023

Date

/s/ Kimberly A. Moore
Kimberly A. Moore
Chief Judge