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# United States Senate

COMMITTEE ON THE JUDICIARY  
WASHINGTON, DC 20510-6275

CYNTHIA C. HOGAN, CHIEF COUNSEL  
CATHERINE M. RUSSELL, STAFF DIRECTOR  
MARK R. DISLER, MINORITY STAFF DIRECTOR  
SHARON PROST, MINORITY CHIEF COUNSEL

May 3, 1994

Ms. Alberta Davison  
Post Office Box 602  
Monroeville, Alabama 36461

Dear Ms. Davison:

I have asked the Administrative Office of the U.S. Courts to review the material which you gave to me in Alabama to see what, if any, further legal recourse you may have relative to the complaint of judicial misconduct which you filed under the Judicial Conduct and Disability Act, 28 U.S.C. Section 372 (c).

Attached is a response which I have received from William R. Burchill, Jr., General Counsel, which advises that after Judge Kravitch issued an order dismissing your complaint, you had thirty days in which to ask the 11th Circuit judicial council to review the order of dismissal. That time has now passed, and the federal statute in question, 28 U.S.C. (c)(10), provides that orders and determinations of complaints "shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise."

I urge you to continue to consult legal counsel to answer any questions that you have, and to explore all legal avenues available to you. If you feel that you have the evidence of criminal misconduct or wrongdoing, you should discuss this further with your legal counsel for further advice and guidance.

With best wishes, I am

Sincerely,

  
Howell Heflin

HH/cc

Enclosure



L. RALPH MECHAM  
DIRECTOR

CLARENCE A. LEE, JR.  
ASSOCIATE DIRECTOR

WILLIAM R. BURCHILL, JR.  
GENERAL COUNSEL

April 29, 1994

Honorable Howell Heflin  
United States Senator  
728 Hart Senate Office Building  
Washington, D. C. 20510-0101

Dear Senator Heflin:

This is in response to your request to our Legislative and Public Affairs Office for advice as to the complaint raised by your constituent, Alberta Davison, in her correspondence of April 8, 1994.

Ms. Davison's letter refers to her involvement with the United States District Court for the Middle District of Georgia, and its enclosures reflect that she filed a complaint of judicial misconduct under the Judicial Conduct and Disability Act, 28 U.S.C. § 372(c). It appears that this complaint chiefly concerns the action of Chief Judge Gerald Tjoflat of the Eleventh Circuit in designating and assigning Chief Judge Wilbur Owens of the Middle District of Georgia to hold court in the Northern District of Florida, as authorized by 28 U.S.C. § 292(b), to preside over a civil action brought by the complainant.

I have reviewed the documents submitted by Ms. Davison and have also conferred with the clerk of the Court of Appeals for the Eleventh Circuit regarding the procedural history of her judicial conduct complaint. I am advised that this complaint was referred to United States Circuit Judge Phyllis Kravitch, acting in the stead of Chief Judge Tjoflat, and that Judge Kravitch dismissed the complaint under 28 U.S.C. § 372(c)(3)(A)(i) as not in conformity with the statute because of the failure to allege "conduct prejudicial to the effective and expeditious administration of the business of the courts."

Judge Kravitch's order dismissing the complaint on March 24, 1994, was transmitted by the clerk to Ms. Davison the next day with a covering letter citing the Eleventh Circuit rules under which review of this action by the circuit judicial council is authorized, consistent with section 372(c)(10). Rule 6(a) of those rules requires that any petition for review to the circuit council shall be filed within 30 days of notification to the complainant that the complaint has been dismissed. That time has now passed.

A TRADITION OF SERVICE TO THE FEDERAL JUDICIARY

Honorable Howell Heflin

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Section 372(c)(10) provides that orders and determinations of complaints "shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise" except for the review mechanism provided by that section.

Ms. Davison's letter states that she is enclosing "information regarding alleged political corruption on the part of the Florida federal court system in association with the federal court system in the Middle District of Georgia." Nevertheless her complaint and the other enclosures do not meet this description. The complaint is clearly premised upon her unhappiness at the outcome of her civil rights litigation against Pensacola Junior College. Under the Judicial Conduct and Disability Act, a complaint may not properly raise the merits of a judicial decision or procedural ruling, and any complaint that does so is subject to dismissal. 28 U.S.C. § 372(c)(3)(A)(ii).

If the Administrative Office can be of any further assistance to you in this matter, your staff is welcome to contact me at (202) 273-1100.

Sincerely,

*William R. Burchill, Jr.*  
William R. Burchill, Jr.

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