

APPENDIX A

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

February 5, 2025

Lyle W. Cayce
Clerk

No. 24-30402
Summary Calendar

PAMELA SHORT POWELL, *individually & on behalf of* DIANA LYNN
SHORT, MARGARET JULIA SHORT, DANIEL ALAN SHORT, JACK
WARREN SHORT, JR.,

Plaintiff—Appellant,

versus

ANTHONY DECICCO; VANITY DECICCO; JANE DOE, 1; JOHN
DOE; BRENT J. LALIBERTE, *Et al.*,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:24-CV-511

Before HO, WILSON, and RAMIREZ, *Circuit Judges.*

PER CURIAM:*

Pamela Short Powell seeks to proceed in forma pauperis (IFP) on appeal from the sua sponte dismissal of her complaint as frivolous and the denial of her recusal motion. By moving to proceed IFP, Powell is challenging

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

the district court's certification that her appeal was not taken in good faith. *Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). Our inquiry into Powell's good faith "is limited to whether the appeal involves legal points arguable on their merits." *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citation omitted).

With the benefit of liberal construction, see *Haines v. Kerner*, 404 U.S. 519, 520 (1972), Powell argues that the district court erred in dismissing her complaint because her arguments were not frivolous and that it should have provided her notice and an opportunity to amend the complaint. Because Powell's lawsuit consisted of claims that were fantastical, irrational, delusional, and without plausible foundation, she fails to show a nonfrivolous basis for challenging the dismissal of the case. See *Hagans v. Lavine*, 415 U.S. 528, 536-37 (1974); *Atakapa Indian de Creole Nation v. Louisiana*, 943 F.3d 1004, 1007 (5th Cir. 2019). Ordinarily, a district court must provide a pro se litigant notice and an opportunity to amend prior to sua sponte dismissal of a complaint. *Century Sur. Co. v. Blevins*, 799 F.3d 366, 372 (5th Cir. 2015). Notice and an opportunity to amend are not required, however, if the claimant has pleaded her best case or the allegations are patently frivolous or based on fantasy or a meritless legal theory. See *Brown v. Taylor*, 829 F.3d 365, 370 (5th Cir. 2016); *Century Sur. Co.*, 799 F.3d at 372. Because Powell's claims were fantastical, there is no nonfrivolous basis for challenging the district court's dismissal on the ground that she was not provided notice and an opportunity to amend. See *Century Sur. Co.*, 799 F.3d at 372. Moreover, Powell filed an amended complaint and gave no indication that she had not pleaded her best case. *Mendoza-Tarango v. Flores*, 982 F.3d 395, 402 (5th Cir. 2020); *Jacquez v. Procunier*, 801 F.2d 789, 792-93 (5th Cir. 1986). Accordingly, Powell fails to present a nonfrivolous argument that the district court abused its discretion in dismissing her complaint as frivolous. See *Howard*, 707 F.2d at 220.

We review the denial of a motion to recuse for abuse of discretion. *See Andrade v. Chojnacki*, 338 F.3d 448, 454 (5th Cir. 2003). Under 28 U.S.C. § 455(a), a federal judge must “disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” Powell makes delusional, fantastical claims about the district court judge’s alleged bias and criminality. None of the facts she recited would arguably lead a reasonable person to doubt the judge’s impartiality. *Patterson v. Mobil Oil Corp.*, 335 F.3d 476, 484 (5th Cir. 2003). Powell fails to present a nonfrivolous argument that the district court abused its discretion in denying her motion to recuse. *See Howard*, 707 F.2d at 220.

Powell’s appeal is without arguable merit and is therefore frivolous. *See id.* Her IFP motion is DENIED, and the appeal is DISMISSED. *Baugh*, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

PAMELA SHORT POWELL

CIVIL ACTION NO. 24-511

VERSUS

JUDGE EDWARDS

ANTHONY DECICCO ET AL

MAG. JUDGE MCCLUSKY

MEMORANDUM RULING

Before the Court is a Motion for Recusal (R. Doc. 8) filed by the plaintiff, Pamela Short Powell ("Powell"). For the reasons set forth below, this case is **DISMISSED WITH PREJUDICE**. Accordingly, the Motion is **DENIED as moot**.

I. BACKGROUND

Powell brings the instant suit against at least eighty-four defendants, ranging from law offices, insurance agencies, landscaping services, real estate brokers, political subdivisions, the State of Louisiana, her landlords, and the Catholic Church. *See* R. Doc. 1; R. Doc. 5. Basically, Powell alleges a vast conspiracy involving human sacrifice, dog poisoning, and fraudulent transfers of property. R. Doc. 1 at 23–29.

On May 20, 2024, Powell filed the instant *Motion for Recusals of Jerry Edwards, Jr. and Kayla Dye McClusky and Notice of Conflicts Regarding S. Maurice Hicks, Jr. and Notice of Scrivener's Error in Complaint* (R. Doc. 8). In it, Powell alleges that the undersigned is "[not] fully qualified to be a judge"; "commits criminal activities as 'Jerry Edwards, Jr.'"; is "black"; is not a citizen; is a "rogue non-judge"; and that he is "affiliat[ed]" with "notable German nazi[s]" and/or the "Bush crime family or Clinton crime family." R. Doc. 8 at 2, 3, 12.

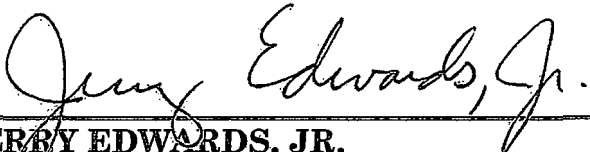
II. LAW AND ANALYSIS

Powell is not a prisoner; nor is she proceeding *in forma pauperis*. Therefore, the screening provisions of 28 U.S.C. §§ 1915 and 1915A are not applicable. However, in *Apple v. Glenn*, the United States Sixth Circuit Court of Appeals recognized a district court's inherent authority to conduct a limited screening procedure, *sua sponte*, in a fee-paid non-prisoner's complaint, if it appears from the pleadings and exhibits that the allegations are “totally implausible, attenuated, unsubstantial, frivolous, devoid of merit, or no longer open to discussion.” 183 F.3d 477, 479 (6th Cir. 1999) (*per curiam*) (citing *Hagans v. Lavine*, 415 U.S. 528, 536–37 (1974)). This Court and other courts in the Fifth Circuit have followed suit. *Black v. Jones*, 1:19-CV-1023, 2019 WL 6353332, at *2 (W.D. La. Oct. 28, 2019), *report and recommendation adopted*, 2019 WL 6357909 (W.D. La. Nov. 26, 2019); *Deng v. Parker*, 2:18-CV-61, 2018 WL 6272460, at *1 (N.D. Tex. Oct. 22, 2018), *report and recommendation adopted*, 2018 WL 6270977 (N.D. Tex. Nov. 29, 2018), *appeal dismissed*, 799 F. App'x 301 (5th Cir. 2020); *McLean v. Country of Mexico*, 1:19-CV-591, 2019 WL 2869579, at *1 (W.D. Tex. July 3, 2019). Because Powell's claims here are “fanciful, irrational, incredible, and delusional” the Court finds dismissal appropriate. *Simmons v. Payne*, 170 F. App'x 906 (5th Cir. 2006); *see* R. Doc. 1, R. Doc. 5, R. Doc. 8. Further, we take this opportunity to warn Powell that her conduct could warrant sanctions under Rule 11 of the Federal Rules of Civil Procedure. Fed. R. Civ. P. 11(b) (prohibiting litigants from filing frivolous or harassing motions). “Rule 11 is aimed at curbing abuses of the judicial system.” *Bus. Guides, Inc. v. Chromatic Commc'ns Enters., Inc.*, 498 U.S. 533, 542 (1991) (internal quotation marks omitted). And Powell should take heed.

III. CONCLUSION

For the foregoing reasons, this action is hereby **DISMISSED WITH PREJUDICE**. Accordingly, the Motion to Recuse (R. Doc. 8) is **DENIED AS MOOT**. A judgment consistent with this ruling will be issued in due course.

THUS DONE AND SIGNED this 24th day of May, 2024.



JERRY EDWARDS, JR.
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

PAMELA SHORT POWELL

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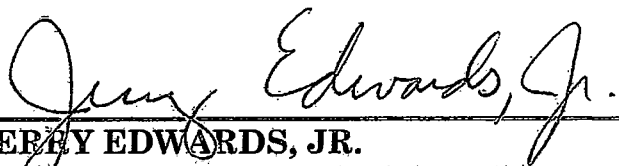
MAG. JUDGE MCCLUSKY

J U D G M E N T

For the reasons stated in this Court's Memorandum Ruling (R. Doc. 10),

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the above-captioned matter be **DISMISSED WITH PREJUDICE**. Any motion that may be pending in this case is hereby **DENIED AS MOOT**.

THUS DONE AND SIGNED this 24th day of May, 2024.



JERRY EDWARDS, JR.
UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

PAMELA SHORT POWELL

CIVIL ACTION NO. 24-511

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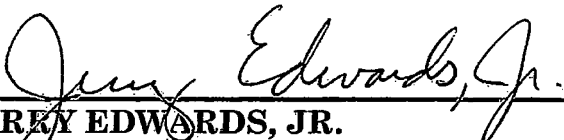
MAG. JUDGE MCCLUSKY

MEMORANDUM ORDER

Before the Court is a *Motion to Vacate Judgement (sic) And for Consideration for Recusals Motion with Notice of Conflicts* (R. Doc. 12) and its subsequent *Amendment and Supplement* (R. Doc. 13). As the plaintiff, Pamela Short Powell, has failed to establish her entitlement to any relief under Rule 60 of the Federal Rules of Civil Procedure, **IT IS ORDERED** that the Motion (R. Doc. 12) is **DENIED**.

Also before the Court is a *Motion to Proceed In Forma Pauperis on Appeal* (R. Doc. 15). “Under 28 U.S.C. § 1915(a), a federal court may refuse to certify an appeal for in forma pauperis status if it is not taken in good faith.” *Howard v. King*, 707 F.2d 215, 219–220 (5th Cir. 1983). “Good faith is demonstrated when a party seeks appellate review of any issue *not frivolous*.” *Id.* at 220 (cleaned up) (emphasis added). Because “none of [her] legal points are arguable on their merits,” Ms. Powell’s appeal is frivolous. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (cleaned up); *see also*, *Howard*, 707 F.2d at 220 (“The [good faith] inquiry is limited to whether the appeal involves legal points arguable on their merits (and therefore not frivolous.)”) (citations omitted). Accordingly, **IT IS FURTHER ORDERED** that the Motion (R. Doc. 15) is **DENIED**.

THUS DONE AND SIGNED this 25th day of July, 2024.



JERRY EDWARDS, JR.
UNITED STATES DISTRICT JUDGE