

AUG. 30 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90098

ORDER

An individual has filed a Complaint against a United States bankruptcy judge under the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351–364, and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States.

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

Background

The record shows that in January 2022 a corporation filed a voluntary petition for Chapter 11 bankruptcy, and Complainant signed the petition as the managing member of the debtor. In March 2022 the Subject Judge entered an order stating that the case would be jointly administered with other cases involving different

debtors, all of which Complainant owned and managed. A creditor later filed an amended emergency motion to remove the debtors or, alternatively, to convert the jointly administered cases to Chapter 7 cases, stating in part that Complainant had engaged in fraud and used the debtors' rental income and assets for his personal benefit.

In July 2022 the Subject Judge entered an order converting the Chapter 11 cases to Chapter 7 cases. The debtors filed a motion to vacate the order, which the Subject Judge denied. The debtors then filed a motion to voluntarily dismiss the case, which the Subject Judge later denied. In August 2022 the debtors filed a motion to recuse the Subject Judge, alleging he was biased against Complainant due to his "race, sex, origin, economic and social status," and that the Subject Judge engaged in other types of misconduct. The Subject Judge denied the motion to recuse, generally finding no reasonable observer would question his impartiality. The order also noted that certain documents Complainant had filed earlier in the case had been stricken because he was not a lawyer and was not authorized to file on behalf of the corporate debtors. There continues to be activity in the case.

Complaint

Complainant asserts that the Subject Judge denied the debtors their constitutional rights to obtain legal advice, to an objective and unbiased trial and evidentiary hearing, to present a payment plan that paid "all the real creditors in full," and to provide the debtors a fresh start. Complainant states he is providing evidence that

he has “not been allowed to present.” He then asserts that a certain individual involved in the case is not a creditor. He attached documents to his Complaint.

Supplement

Complainant’s supplemental statement consists of various documents.

Discussion

Judicial-Conduct Rule 4(b)(1) 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 explains the rationale for this rule as follows:

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, rulings, findings, and orders in the above-described case, the allegations are directly

related to the merits of the Subject Judge's decisions or procedural rulings. Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge otherwise engaged in misconduct.

The allegations of this Complaint are "directly related to the merits of a decision or procedural ruling," under Judicial-Conduct Rule 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," under Judicial-Conduct Rule 11(c)(1)(D). For those reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge