

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

MAY 05 2023

CIRCUIT EXECUTIVE

**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

11-22-90139

**IN RE: COMPLAINT OF JUDICIAL
MISCONDUCT OR DISABILITY**

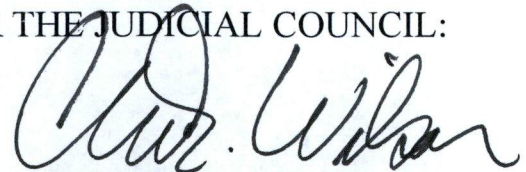
ON PETITION FOR REVIEW

Before: WILSON, ROSENBAUM, and BRANCH, Circuit Judges;
COOGLER and WALKER, Chief District Judges.

Pursuant to 11th Cir. JCDR 18.3, this Judicial Council Review Panel has considered petitioner's complaint filed on September 29, 2022, the order of Chief United States Circuit Judge William H. Pryor Jr. filed on November 1, 2022, and the petition for review filed by petitioner on November 15, 2022. No judge on this panel has requested that this matter be placed on the agenda of a meeting of the Judicial Council.

The Judicial Council Review Panel hereby AFFIRMS the disposition of this matter by Chief Judge Pryor. The petition for review is DENIED.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

NOV 01 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90139

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.

Background

The record shows that in September 2019 Complainant filed a voluntary petition for Chapter 13 bankruptcy. Complainant later filed a sixteenth amended Chapter 13 plan. In October 2021, a bankruptcy judge who is not the Subject Judge confirmed an amended version of the Chapter 13 plan. Afterward, the Subject Judge was assigned to the case.

After additional proceedings, in June 2022 Complainant filed a motion in which she stated she had not been receiving documents

in the case, and the Subject Judge later denied the motion because the documents had been served upon Complainant at the email address she provided to the court. In July 2022, the Subject Judge entered an order directing Complainant to show cause why sanctions should not be imposed on her in the light of her repetitive, frivolous, and vexatious filings. After a hearing in September 2022, the Subject Judge imposed interim sanctions against Complainant and prohibited her from filing any document in the case unless it was signed by an attorney. The Subject Judge then entered orders striking two notices of appeal Complainant had filed because they were not signed by an attorney.

Complaint

Complainant alleges that, at the September 2022 hearing, the Subject Judge engaged in misconduct and violated the Federal Rules of Evidence by refusing to take judicial notice at the request of a party, refusing evidence showing that mail was not received and other relevant evidence, excluding certain exhibits, and denying certain motions Complainant had filed. She also states the Subject Judge denied her constitutional right to be heard on appeal, placed her in “debt bondage,” violated her constitutional rights by ordering her not to communicate with the clerk’s office, and unfairly prejudiced her because he knew she could not afford an attorney. She attached documents to her Complaint.

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.

The Complaint fails to present a basis for a finding of misconduct. 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. Judicial-Conduct Rule 11(c)(1)(B). Complainant’s remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge