

JUL 19 2023

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90013

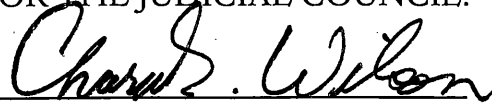
ORDER

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 the materials described in JCDR 18(c)(2), including petitioner's complaint, the order of Chief United States Circuit Judge William H. Pryor Jr., and the petition for review filed by petitioner. 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

MAR 06 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90013

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 her Complaint, she filed two supplemental statements. The filing of the supplemental statements is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record shows that in 2010 Complainant filed a voluntary petition for Chapter 13 bankruptcy. After various proceedings, a bankruptcy judge who is not the Subject Judge issued an order confirming a Chapter 13 plan. The order included a provision stating that post-petition costs or expenses incurred by secured

creditors would be discharged upon Complainant's completion of the plan, with certain exceptions. In June 2015, the bankruptcy judge granted Complainant a discharge, and the case was later closed. In December 2021, Complainant filed a motion to reopen the case, alleging in part that a creditor violated the discharge order by seeking to have her pay the creditor's attorney's fees for defending its claim in the case. She also filed motions for contempt and sanctions against the creditor. In April 2022, the Subject Judge was assigned to the case.

After a hearing, the Subject Judge granted the motion to reopen in part and reopened the case for the limited purpose of determining whether the creditor was in contempt for violating the discharge injunction. In August 2022, the Subject Judge entered an order denying Complainant's motions for contempt and sanctions on the grounds that the disputed fees had not been discharged and that *res judicata* barred Complainant from bringing claims already adjudicated by the court. Complainant filed a motion for rehearing, which the Subject Judge denied. She then filed multiple motions seeking various types of relief and multiple notices of appeal.

The record also shows that in September 2022 Complainant filed another voluntary petition for Chapter 13 bankruptcy, and the Subject Judge was assigned to the case. Complainant then filed, among other things, a motion and amended motions for contempt and sanctions against a city, alleging the city violated the automatic stay in connection with lawsuits she filed in state court.

In November 2022, the Subject Judge entered an order denying the third amended motion for contempt and sanctions on the ground that the automatic stay did not prevent the city from defending litigation initiated by Complainant. In a footnote, the Subject Judge stated that a review of Complainant's *pro se* filings in the state court and in her prior bankruptcy case "leads to the inescapable conclusion that the Debtor is prone to excessive and frivolous filings." In another footnote, the Subject Judge "caution[ed] that if the City prevails in the Lawsuits and requests that the Debtor be held liable for its attorney's fees, then the City must seek relief from the automatic stay prior to requesting such an award." Complainant later filed another motion for contempt and sanctions, and the Subject Judge ordered the motion stricken in part and denied in part. There continues to be activity in the case.

Complaint

Complainant states that the Subject Judge is "a very new Judge," "has no understanding of Bankruptcy," "has not grasped the spir[i]t of the case at all," did not empathize with her for abuse she suffered, and ignored her requests for relief. She takes issue the Subject Judge's finding that the order granting her a discharge did not apply to a certain claim, stating the finding was "crazy" and that the previous judge included language that resolved the matter. Complainant states, "I don't think he likes women, and he has an attitude they are second class citizens."

Complainant states that the Subject Judge ruled against her 15 times in 9 months, she has "never seen a Judge strike so many

motions,” he struck her motions as deficient when they were not, he only set 1 hearing on over 20 motions or filings, and he “is clearly looking to harass” her. Next, Complainant contends that in his November 2022 order in the second case, the Subject Judge “showed prejudice against” her, slandered her by stating that her state-court pleadings were frivolous, and gave legal advice to the city, all which was “overreaching and inappropriate.” Complainant requests that a new judge be assigned to her cases, and she attached documents to her Complaint.

Supplements

In her first supplemental statement, Complainant alleges that, in the second above-described case, the Subject Judge permitted violations of the automatic stay, improperly allowed prematurely filed claims, and improperly stated her claims in bankruptcy court and state court were frivolous. She also contends the Subject Judge “rules unfairly and does not offer a solution in compliance with the bankruptcy code,” “does not want to accept” the previous judge’s confirmation order, and “is too new and is too slow in understanding.” She attached documents to her first supplement.

In the second supplement, Complainant states that, before he became a judge, the Subject Judge was an attorney representing creditors, which “explains why he allows the predatory creditor to proceed with a foreclosure case in state court when it is a violation of the automatic stay.” She asserts the Subject Judge allows all creditors to “win their arguments” when bankruptcy is supposed to provide relief to debtors. She asserts that the Subject Judge let a

state court interfere in her bankruptcy proceeding and her attempts to obtain financing, and blocked her from removing discharged fees from her first bankruptcy case from her payoff. She attached documents to her second supplement.

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 cases, 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 was biased or prejudiced, discriminated against Complainant based on her gender, sought to harass her, was incompetent, or 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