

**CONFIDENTIAL**

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

**BEFORE THE CHIEF JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT**

APR 04 2018

David J. Smith  
Clerk

**Judicial Complaint No. 11-17-90080**

**IN THE MATTER OF A COMPLAINT FILED BY \_\_\_\_\_**

---

IN RE: The Complaint of \_\_\_\_\_ against \_\_\_\_\_, U.S. Bankruptcy Judge for the U.S. Bankruptcy Court for the \_\_\_\_\_ District of \_\_\_\_\_, under the Judicial Conduct and Disability Act of 1980, Chapter 16 of Title 28 U.S.C. §§ 351-364.

---

**ORDER**

\_\_\_\_\_ (“Complainant”) has filed this Complaint against United States Bankruptcy Judge \_\_\_\_\_ (the “Subject Judge”), pursuant to Chapter 16 of Title 28 U.S.C. § 351(a) and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (“JCDR”).

**Background**

The record shows that on July 18, 2014, an individual debtor filed a petition for Chapter 13 bankruptcy. In September 2014 \_\_\_\_\_ filed a motion for relief from the automatic stay, stating that it had purchased certain property at a public tax sale and a tax deed was issued to it the day before the debtor filed for bankruptcy.<sup>1</sup> \_\_\_\_\_ requested that the stay be lifted to permit it to seek the eviction of the debtor from the property. The next month, the Subject Judge granted the motion for relief from the automatic stay. The debtor filed a motion to maintain the automatic stay and a motion to vacate the sale of the tax deed.

Later in October 2014, the Subject Judge entered an order treating the debtor’s motion to maintain the automatic stay as a motion for reconsideration of the order granting \_\_\_\_\_ motion for relief from the automatic stay, and the Subject Judge granted the motion for reconsideration. At a hearing in November 2014, the Subject Judge denied \_\_\_\_\_ motion for relief from the automatic stay. The Subject Judge also granted the debtor’s motion to vacate the sale of the tax deed and ordered that the bankruptcy case was deemed to have been filed on July 16, 2014, the day before the tax deed sale.

---

<sup>1</sup> Complainant filed his complaint as \_\_\_\_\_ (“\_\_\_\_\_”).

After that, \_\_\_\_\_ filed another motion for relief from the automatic stay, arguing that the matter would have to be remanded to the state court to vacate the tax deed sale, and the Subject Judge issued a preliminary order granting the motion. After additional proceedings, in July 2015 the Subject Judge entered an order confirming the Chapter 13 plan. However, in January 2016 the Subject Judge dismissed the case without prejudice due to the debtor's failure to comply with the order confirming the plan.

The record also shows that in February 2016 the debtor filed another petition for Chapter 13 bankruptcy. The debtor then filed a motion to extend the automatic stay, and \_\_\_\_\_ filed a response in opposition. In March 2016 the Subject Judge granted the motion to extend the automatic stay. After various proceedings, in April 2017 \_\_\_\_\_ filed an amended motion to dismiss the case, arguing that it had been filed in bad faith. The next month, the Subject Judge issued an order confirming the debtor's Chapter 13 plan. \_\_\_\_\_ filed a motion for rehearing, which the Subject Judge denied.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant states that the Subject Judge issued "questionable decisions" and "confused being a Judge with being a social worker" in the above-described cases. He alleges that the Subject Judge's rulings are "clearly contrary to her oath as a Judge as they are 180 degrees away from the law, as well as common sense." Complainant takes issue with, among other things, the Subject Judge's order granting the motion to vacate the tax deed sale and decision to award the "sales surplus from this vacated sale" to the debtor.

Complainant also asserts that the Subject Judge "made the Tax Deed purchaser, in complete contradiction to [State] Statutes, a creditor to be paid per a five-year schedule." In conclusion, Complainant states that his "complaint goes beyond a complaint directly related to the merits of a decision, as the contradicting decisions clearly show that [the Subject Judge] was acting more of [sic] a social worker, trying to protect the debtor, than a Judge in this case." He attached documents to his Complaint.

### Discussion

Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States provides that cognizable misconduct does not include "an allegation that is directly related to the merits of a decision or procedural ruling." The Rule provides that "[a]n allegation that calls into question the correctness of a judge's ruling, including a failure to recuse, without more, is merits-related." Id. The "Commentary on Rule 3" states in part:

Rule 3(h)(3)(A) 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 power by ensuring that the complaint procedure is not used to collaterally attack the substance of a judge’s ruling. Any allegation that calls into question the correctness of an official action of a judge—without more—is merits-related.

To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, findings, rulings, and orders entered in the above-described cases, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Apart from the decisions or procedural rulings with which Complainant takes issue, he provides no credible facts or evidence in support of his allegations that the Subject Judge engaged in misconduct.

The allegations of this Complaint are “directly related to the merits of a decision or procedural ruling,” JCDR 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,” JCDR 11(c)(1)(D). For those reasons, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and (iii), and Rule 11(c)(1)(B) and (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.

A handwritten signature in black ink, appearing to read "E. A. [unclear]", written over a horizontal line.

Chief Judge