

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

APR 09 2020

CIRCUIT EXECUTIVE

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

11-20-90003

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

ON PETITION FOR REVIEW*

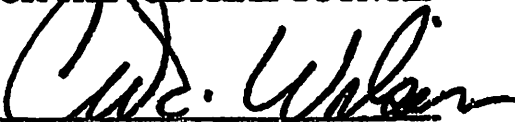
**Before: WILSON, WILLIAM PRYOR, MARTIN, JORDÁN,
ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, and GRANT, Circuit
Judges; MERRYDAY, MOORE, THRASH, LAND, COOGLER, DuBOSE, HALL,
WALKER, and MARKS, Chief District Judges.**

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Wilson, William Pryor, Martin, Land, and Walker, the order of Chief Judge Ed Carnes, filed on 24 January 2020, and of the petition for review filed by the complainant on 24 February 2020, with no non-disqualified judge on the Judicial Council Review Panel having requested that this matter be placed on the agenda of a meeting of the Judicial Council,

The Judicial Council Review Panel hereby determines that the disposition of this matter was proper and said disposition is hereby **AFFIRMED**.

The foregoing actions are **APPROVED**.

FOR THE JUDICIAL COUNCIL:


United States Circuit Judge

* Chief Circuit Judge Ed Carnes did not take part in the review of this petition.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

JAN 24 2020

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint No. 11-20-90003

IN THE MATTER OF A COMPLAINT FILED BY _____

**IN RE: The Complaint of _____ against United States Bankruptcy Judge
_____ of the United States 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”).

As an initial matter, after Complainant filed her Complaint, she 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 2015 _____ filed an amended complaint against Complainant, raising claims of defamation, intentional infliction of emotional distress, and interference with advantageous business relationships. After various proceedings, in December 2015 the district court entered a final judgment in favor of _____ and against Complainant in the amount of \$1.7 million.

The record also shows that in May 2019 _____ filed an involuntary petition for Chapter 11 bankruptcy against Complainant. _____ then filed an emergency motion for an automatic stay, and the Subject Judge denied the motion as moot. Later in May 2019, _____, as a judgment creditor and through his counsel _____ of the law firm _____, filed an emergency motion to appoint a Chapter 11 Trustee or Examiner, contending that Complainant had a “longstanding and documented history of dishonesty and fraud” and the bankruptcy petition was part of an attempt to evade _____ collection on his judgment.

On May 29, 2019, Complainant filed an adversary proceeding against _____, generally alleging that he had committed fraud to obtain an illegal judgment against her. The Subject Judge later dismissed the adversary proceeding due to Complainant's failure to pay the filing fee. Also on May 29, 2019, Complainant filed an emergency motion to remove _____ as _____ attorney, arguing that _____ had a "favored relationship" with the court in part because she was the Subject Judge's former law clerk. The next day, following a hearing, the Subject Judge entered an "Order for Relief," granting relief under Chapter 11 of the Bankruptcy Code, noting that Complainant had consented to entry of an order for relief at the hearing and directing her to file various documents. The Subject Judge also entered an order denying the motion to remove _____.

In June 2019 Complainant filed emergency motions: (1) to dismiss _____ as a "fraudulent creditor"; (2) for a protective order to delay the initial debtor interview before the United States Trustee; (3) to remove the United States Trustee; and (4) for sanctions against _____, _____, and _____. The Subject Judge entered orders denying those motions the next day. After additional filings, the United States Trustee filed an emergency motion to convert or dismiss the case, arguing that Complainant had not provided required documents and had apparently transferred certain properties to _____ after the filing of the involuntary petition but before entry of the Order for Relief.

On June 12, 2019, Complainant filed a motion to disqualify the Subject Judge, generally alleging that the case was "replete with bias, prejudice, partiality and illegal acts." Among other things, Complainant asserted that the Subject Judge: (1) failed to investigate allegations of fraud against _____; (2) deprived Complainant of her due process rights at an initial hearing; (3) had not permitted Complainant to present evidence; and (4) exhibited bias by not removing _____. On June 17, 2019, the Subject Judge denied the motion, stating that: (1) the court was not an investigative body; (2) Complainant's due process claim was baseless; (3) Complainant would be given the opportunity to present evidence at the appropriate time; and (4) the involvement of _____, who had been employed as a law clerk more than 10 years before the filing of the case, did not establish that the Subject Judge was biased.

Later in June 2019, the Subject Judge entered an order granting the United States Trustee's motion to convert, and the case was converted to a Chapter 7 case. Several days later, the United States Trustee filed a notice that it had appointed _____ as trustee of Complainant's estate. Trustee _____ filed an *ex parte* application to employ an attorney and the law firm _____, as counsel in the case, and the Subject Judge later granted the motion.

In late June 2019 Complainant filed another motion to disqualify the Subject Judge, alleging in part that she was using the bankruptcy court as a collection agency, as

a racketeering enterprise, and as a means to commit robbery, and that she had a pattern and history of issuing “irrational and unlawful” rulings. The next month, the Subject Judge denied the motion, generally finding that Complainant had not established a basis for disqualification and had failed to objectively show that the court exhibited any negative bias or prejudice against her. Trustee _____ filed a motion to compel Complainant’s compliance with court orders and her attendance at the first meeting of creditors.

In late July 2019 _____ filed a motion to disqualify the Subject Judge, alleging that she had a pattern and history of bias and prejudice against him. The next month, the Subject Judge denied the motion, generally finding that _____ had not established a basis for disqualification. Several days later, Complainant filed another motion to disqualify the Subject Judge, arguing in part that she had failed to file required financial disclosure statements and had used the court to run an “extortion racket” for years.

On August 6, 2019, the Subject Judge granted Trustee _____ motion to compel, directing Complainant to provide certain documents and to attend the meeting of creditors scheduled for the next day. On August 7, 2019, Complainant filed a response to the order granting the motion to compel stating that she did not recognize the court’s jurisdiction and raising various allegations of misconduct on the part of the Subject Judge and others. The same day, the Subject Judge entered an order denying the latest motion for disqualification, incorporating by reference her earlier orders denying motions to disqualify and noting that, under Fed. R. Bankr. P. 9011, Complainant did not have the right to make false statements in her filings.

In mid-August 2019 _____ filed a “Motion for Financial Disclosure” requesting that the Subject Judge provide him with her financial disclosure statements required by the Ethics in Government Act of 1978. The Subject Judge entered an order denying the motion without prejudice to _____ seeking copies of the statements pursuant to the statute and its procedural mechanism.

In September 2019 Trustee _____ filed a “Motion to Approve Compromise of Controversy,” seeking the court’s approval of an agreement between Trustee _____ and _____ concerning _____ proof of claim. Trustee _____ and _____ also initiated adversary proceedings against Complainant, objecting to entry of a discharge in the case. The clerk has entered defaults against Complainant in both adversary proceedings.

On September 13, 2019, Trustee _____ notified the court that he was satisfied that Complainant had provided the information required by 11 U.S.C. § 521(a)(1). A few days later, the Subject Judge entered an “Order Determining Debtor’s Compliance with Filing Requirements of §521(a)(1)” and stating the case was not subject to automatic

dismissal under the statute. In late October and early November 2019 Complainant filed another motion to disqualify the Subject Judge, a motion for a jury trial on that motion, and multiple emergency motions and supplements. The Subject Judge entered orders denying Complainant's motions. The Subject Judge also entered an order vacating the Order Determining Debtor's Compliance with Filing Requirements of §521(a)(1), noting the trustee had withdrawn his statement regarding the debtor's compliance as it was submitted in error. After that, Complainant filed multiple motions seeking various types of relief, including additional motions to disqualify, and the Subject Judge later denied the motions to disqualify.

In January 2020, following an evidentiary hearing, the Subject Judge issued an opinion granting Trustee _____ Motion to Approve Compromise of Controversy. The order stated that the agreement, among other things, provided that _____ claim would be allowed but treated as a general unsecured claim and the parties would exchange a mutual general release that would end the civil litigation between Complainant and _____. A couple of days later, the Subject Judge entered an order directing Complainant to show cause why she should not be required to hire counsel or seek leave of the court before filing anything with the court. The order stated that Complainant had filed incomprehensible and repetitious motions, pleadings, and complaints that contained profanity, conspiracy theories, and unfounded and false statements about parties involved in the case and the court, and that she had disregarded the court's warning not to submit documents that violated Rule 9011.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant alleges that the Subject Judge has used the court "to perpetrate racketeering, embezzlement, collusion and conspiracy," and "through her unlawful extrajudicial associations has hand-picked a group of minions to engage in an extortion racket." Complainant states that the Subject Judge has "destroyed [her] life and the lives of countless [] others," and she asserts that she has met with other members of the public "who have and are being terrorized, threatened, retaliated and extorted" by the Subject Judge. She states that it is "well known in the legal and judicial community that [the Subject Judge] uses an incestuous group of her cohorts and cronies to extort the assets of those who appear in her court." Complainant asserts that each time she objects to the Subject Judge's "shocking and deliberate violation of law," the Subject Judge subjects her to "corrupt orders, harassment and retaliation." Complainant asserts that the Subject Judge's cases should be audited and she should be suspended from office.

Complainant alleges that the Subject Judge: (1) committed crimes and had a criminal conflict of interest; (2) violated judicial canons regarding restrictions on outside income and requirements for financial disclosure; (3) used her office for illegal financial gain; (4) "[o]bviously" accepted bribes, gifts, or other personal favors related to the

judicial office; (5) conspired with _____ to perpetrate an embezzlement scheme; (6) falsified facts; (7) held ex parte proceedings; (8) treated Complainant in a demonstrably egregious and hostile manner; (9) failed to call to the attention of the relevant chief district judge or chief circuit judge reliable information reasonably likely to constitute judicial misconduct; (10) violated judicial rules of procedure and evidence and acted outside the scope of her jurisdiction; (11) is incompetent; (12) "simulat[ed] a court official" in violation of 18 U.S.C. § 912 (Officer or employee of the United States); and (13) violated her oath of office. Complainant also alleges that the Subject Judge's conduct has severely lowered the public's trust and confidence in the credibility and proper functioning of the judiciary.

Complainant alleges that the Subject Judge has assembled a group of her "cronies" whom she "sources from her unlawful extrajudicial activities" and who regularly appear in her court, in violation of judicial canons and laws on conflicts of interest. She asserts that the Subject Judge works with those individuals to conduct an "embezzlement enterprise" and "tailors her illegal void orders to perpetrate their embezzlement goal." She states that: (1) the Subject Judge was past president of the _____ Bar Association, which has officers from _____, and that _____ attorneys are members of the Subject Judge's "team" and represent Trustee _____ in the case; (2) the Subject Judge is a member of the _____ Association of the _____ Bar, which has members from _____, and that _____ attorneys are members of the Subject Judge's "team"; and (3) _____ is an attorney from _____, a former law clerk of the Subject Judge, a member of the "team," and _____ attorney.

Complainant then takes issue with the actions of other judges and _____, generally alleging that the judgment _____ obtained against her was the result of criminal actions, and she contends that the Subject Judge violated the Code of Conduct for United States Judges by failing to report the misconduct of others. Complainant also alleges that the Subject Judge illegally precluded her from reporting criminal conduct and ordered her to violate the law requiring that she report such conduct.

Complainant alleges that the Subject Judge and Trustee _____ run a "vast collusive empire" and have worked together for years to "apparently extort the assets of debtors, by issuing orders that civilly and criminally violate the law and criminally violating the law limiting the amount of compensation that can be paid to the trustee." She states that the "media is replete with stories of these obscene payments" and that it is reported that the Subject Judge illegally paid over \$10 million to _____ in violation of the cap on fees under 11 U.S.C. § 326. She cites an article stating that the Subject Judge signed off on a settlement in a certain case, the total recovery was about \$ _____ million, and _____ law firm got to keep about \$ _____ million. Complainant alleges that the Subject Judge illegally appointed Trustee _____ on an ex parte basis. She contends that _____ is unfit to act as a trustee because he uses

information acquired in bankruptcy court in other cases and that his actions violate his duty to act independently.

Complainant alleges that the Subject Judge: (1) "routinely packs her court with an army of bailiffs to intimidate and threaten" Complainant; (2) "encourages backdoor deals and illegal ex part[e] communication between her crony attorneys to the exclusion of" Complainant; (3) precludes the introduction of evidence at hearings, which results in orders based on perjury, hearsay, and fabricated statements; (4) altered her order stating Complainant had complied with bankruptcy filings to protect her team and perpetrate the embezzlement racket; (5) protected and rewarded _____ for corruption and deception when he purposely did not provide Complainant with a copy of a lien; (6) is unlawfully using the bankruptcy court as a "collection agency" and a racketeering enterprise; and (7) is "threatening, coercing and putting [Complainant] in fear of robbery and extortion to unlawfully collect an illegal debt." She also alleges that the Subject Judge "uniformly fails to provide" Complainant with orders, instead providing them only to the opposing parties, which violates her due process rights and relegates her to "inferior and discriminated status." She asserts that the Subject Judge's team "run their mail through their own mailing meters," including a meter used by _____, and "set the incorrect date of mailing."

Complainant alleges that the Subject Judge has violated civil and criminal laws by deliberately refusing for 14 years to provide financial disclosure statements as required by the Ethics in Government Act of 1978. Complainant states that this alleged failure to disclose, together with the Subject Judge's payment of \$10 million to a trustee who is a standing member of her team, makes it apparent that the Subject Judge is using the court to accept and give bribes or other illegal financial or other benefits in violation of 18 U.S.C. § 201 (Bribery of public officials and witnesses). Complainant also asserts that the Subject Judge is committing "theft of services," is a public servant violating the public trust, and is covering up any potential conflicts of interests she may have, in violation of Complainant's due process rights and judicial canons.

Complainant alleges that the Subject Judge has issued "bizarre, illogical, deceptive, illegal 'rulings' that defy logic and criminally and civilly violate the law," and that "[a]ny reasonable person" would conclude she "exhibits a scary, dangerous lack of reason, logic and control of her faculties that appears to be in the nature of a mental disorder" She also alleges that the Subject Judge viciously and illegally attacked an attorney who made a comment about her "mental dysfunction." Complainant cites, among other things, an article stating that the Subject Judge had "decided to go easy" on an attorney after he made a certain remark about her.

Finally, Complainant asserts that she is in imminent danger and that her assets have been illegally seized and garnished. She "seeks whistleblower protection from acts of retaliation, coercion, discrimination, intimidation and threats she is experiencing by

[the Subject Judge] and any judge associated with, acting in collusion with or on behalf of' the Subject Judge. She attached various documents to her Complaint, including what she characterizes as a sample of the Subject Judge's "bizarre, irrational, illegal" orders.

Supplement

In her supplemental statement, Complainant generally reiterates many of her allegations, contends that two of her appeals are "being neglected," and states that "[i]t appears this commission is acting as an accomplice and accessory to the embezzlement of [her] assets."

Discussion

Rule 4(b)(1) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, "Allegations Related to the Merits of a Decision or Procedural Ruling," 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" states in part:

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, findings, rulings, and orders in the case, the allegations are directly related to the merits of the Subject Judge's decisions or procedural rulings. Complainant's remaining claims, including her bare and unsupported assertion that the Subject Judge failed to file required financial disclosure statements, are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge: (1) committed crimes or had a conflict of interest; (2) violated judicial canons; (3) used her office for personal financial gain; (4) accepted gifts, bribes, or other personal favors related to the judicial office; (5) conspired with _____ or others; (6) falsified facts; (7) held improper *ex parte* proceedings; (8) treated Complainant or others in a demonstrably egregious and hostile manner; (9) improperly failed to report misconduct; (10) violated the Code of Conduct for United States Judges or other "judicial rules"; (11) is incompetent; (12) "simulated" a court official; or (13) violated her oath of office.

Nor has Complainant presented evidence to raise any inference that the Subject Judge: (1) took actions to intimidate and threaten Complainant; (2) engaged in improper ex parte communications; (3) conducted hearings or issued orders based on an illicit or improper motive; (4) engaged in an embezzlement racket; (5) protected or rewarded _____; (6) unlawfully used the bankruptcy court as a “collection agency” and racketeering enterprise; (7) threatened or coerced Complainant to collect an illegal debt; or (8) otherwise engaged in misconduct.

With respect to Complainant’s claim that the Subject Judge participated in “unlawful extrajudicial activities” because she was past president of the _____ Bar Association and a member of the _____ Association of the _____ Bar, Complainant’s claim does not raise an inference that the Subject Judge engaged in misconduct. See Guide to Judiciary Policy, Vol. 2B, Ch. 2, Advisory Opinion No. 34 “Service as Officer or on Governing Board of Bar Association” (“In conclusion, we are of the opinion that a judge may properly serve as an officer or member of a board, council or committee of a bar association, subject to the restrictions set forth in Canon 4.”).

Finally, with respect to Complainant’s claim that Trustee _____ was paid an amount that exceeded the limits set out in 11 U.S.C. § 326, she has not shown that an improper payment was made. The article that Complainant cites states that _____ law firm received a payment following the settlement of a case. Under 11 U.S.C. §§ 327 and 328, a court may approve a trustee’s employment of one or more attorneys and may authorize the trustee to act as attorney for the estate, “on any reasonable terms and conditions of employment.” Complainant’s allegations about the payment of _____ law firm raise no inference of judicial 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**.



Chief Judge