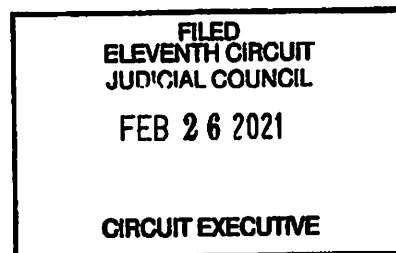


**FOR THE JUDICIAL COUNCIL
OF THE ELEVENTH CIRCUIT**

11-20-90077



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

ON PETITION FOR REVIEW*

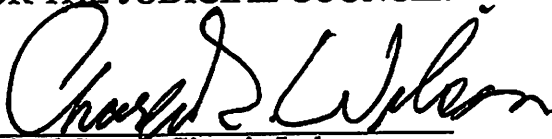
Before: WILSON, MARTIN, JORDÁN, ROSENBAUM, JILL PRYOR, NEWSOM, BRANCH, GRANT, and LUCK, Circuit Judges; MOORE, THRASH, CORRIGAN, COOGLER, DuBOSE, HALL, TREADWELL, WALKER, and MARKS, Chief District Judges.

Upon consideration of the petitioner's complaint by a review panel consisting of Judges Wilson, Martin, Branch, Coogler, and Walker, the order of Chief Judge William H. Pryor Jr., filed on 18 November 2020, and of the petition for review filed by the complainant on 2 December 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 William H. Pryor Jr. did not take part in the review of this petition.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

NOV 18 2020

David J. Smith
Clerk

CONFIDENTIAL

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

Judicial Complaint No. 11-20-90077

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 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 February 2020 _____ (“_____”) filed a voluntary petition for Chapter 11 bankruptcy. Complainant signed the petition as the Managing Member of _____, and the petition listed _____ (“_____”) as a creditor who held a “Fraudulent Mechanics Lien” secured by property. Also in February 2020, _____ filed an adversary proceeding against _____ for the purpose of declaring _____ mechanic’s lien null and void, arguing _____ acquired the property at a federal tax lien foreclosure sale and _____ failed to timely perfect its mechanic’s lien.

On February 4, 2020, _____ filed in the main bankruptcy case a motion to dismiss the case as a bath faith filing or, alternatively, for relief from the automatic stay with a bar to refiling. The motion generally described Complainant’s attempts to stop the foreclosure of _____ property and argued that he filed the bankruptcy case in bad faith to delay a state court foreclosure case. On February 6, 2020, the Subject Judge issued an order finding that modifying the automatic stay to permit the state court to conduct a trial would materially and substantially advance the progress of the case and

resolve the parties' dispute in the most timely and efficient matter. The Subject Judge also issued an order abating the adversary proceeding until a judgment was entered in the state court action.

On February 7, 2020, the United States Trustee filed a motion to dismiss the main bankruptcy case, to convert the case, or to have a trustee or examiner assigned. On February 17, 2020, _____ filed a motion for contempt and sanctions against _____ and Complainant, arguing they failed to allow an inspection of the property as the court had ordered them to do. Another creditor then filed a motion to convert the case or appoint a trustee. Later in February 2020, _____ filed a notice with an attached final judgment issued in the state court case permitting foreclosure of _____ lien against _____, Complainant, and others. After a hearing, the Subject Judge issued orders granting the United States Trustee and the creditor's motions to convert the case, and issued an order converting the case to a Chapter 7 case.

On March 25, 2020, the United States Trustee filed a motion for sanctions against _____ attorney and her law firm, arguing in part that the attorney had alleged that the state court judge accepted a bribe without receiving or reviewing any evidentiary support for the allegation. Two days later, _____ filed a motion for contempt and sanctions against _____ and Complainant, arguing they had appealed the state court judgment in violation of the automatic stay. In late March 2020, _____ filed an opposition to _____ motion for sanctions and a counter-motion for permission to file an independent action in state court to set aside _____ judgment based on fraud on the court committed by _____, its president, and "possibly" _____ and her law firm, which represented _____.

The next month, the Subject Judge entered an order granting the United States Trustee's motion for sanctions, reprimanding Complainant's attorney, and directing her to take various remedial actions. On April 8, 2020, the Chapter 7 Trustee filed a Motion for Turnover of Possession, seeking to have _____ and Complainant turnover possession of the property. On April 24, 2020, _____ filed an amended motion for contempt and sanctions against _____, Complainant, and an attorney, and to deem a state court appeal Complainant had filed void ab initio as filed in violation of the automatic stay. In late April 2020, _____ filed an emergency motion for relief from automatic stay to allow it and Complainant to file a notice of appeal in the state court.

In May 2020 the Chapter 7 Trustee filed a Motion to Approve Compromise of Controversy seeking an order approving a settlement agreement between the Trustee and _____, which involved the Trustee selling the property free and clear of all liens and _____ agreeing to a carveout from the sale proceeds. Later that month, Complainant filed an adversary proceeding against _____, the Subject Judge, and others, arguing the defendants had conspired to steal Complainant and _____ property and to give it

to a creditor holding a void judgment. The Subject Judge later dismissed the proceeding because Complainant failed to pay the filing fee.

On May 22, 2020, the Subject Judge entered an order in the main bankruptcy case stating that, at a hearing, counsel for _____ withdrew the portion of its motion seeking sanctions against _____, Complainant, and an attorney, and the order denied that portion of _____ motion as moot in light of the withdrawal. The order also granted the remaining portion of the motion, finding the appeal pending in state court was void *ab initio* as it was filed in violation of the automatic stay. The Subject Judge then entered an order denying _____ April 2020 motion for relief from the automatic stay, stating that only the Trustee had the authority to prosecute the state court appeal.

On June 1, 2020, Complainant filed a motion to recuse the Subject Judge alleging, among other things, that the Subject Judge: (1) refused to hear evidence that the state court proceedings were a sham; (2) refused to allow Complainant to appeal the state court judgment; (3) allowed the Chapter 11 Trustee to conspire with _____ attorneys; (4) encouraged the Chapter 7 Trustee to engage in secret negotiations with _____; (5) made material misrepresentations; (6) exhibited bias and prejudice; and (7) made derogatory comments about _____ and Complainant. On the same day, the Subject Judge issued an order granting the Chapter 7 Trustee's April 2020 Motion for Turnover of Possession, directing that _____ and Complainant turnover possession of the property to the Trustee no later than June 2, 2020 and authorizing the Trustee to take possession of the property for the benefit of the estate.

Complainant then filed various documents, including a motion for leave to appeal from interlocutory orders. On July 2, 2020, the Subject Judge entered an order granting the Chapter 7 Trustee's Motion to Approve Compromise of Controversy. A couple of weeks later, Complainant filed another motion for leave to appeal from interlocutory orders, and _____ filed a motion for contempt and sanctions against _____ and Complainant. On July 23, 2020, _____ filed a notice of withdrawal of its February 2020 motion for contempt and sanctions, noting it would proceed on its recently filed motion, and filed a notice of withdrawal of its February 2020 motion to dismiss the case in light of the conversation of the case to one filed under Chapter 7.

On August 11, 2020, the Chapter 7 Trustee filed a motion for sanctions, alleging Complainant willfully violated the automatic stay by filing documents in the state court case, additional actions in state court, an improper adversary proceeding, and a lawsuit in the district court, all seeking to "undo" the state court's final judgment and to retaliate against the parties involved. Later that month, the Subject Judge entered an order granting in part _____ renewed motion for contempt and sanctions as to _____, directing that _____ could not file any pleadings or motions without counsel in any state or federal court, and denied the motion as moot as to Complainant based on a forthcoming order. The Subject Judge then entered an order granting the August 11,

2020 motion for sanctions against Complainant for willful violation of the automatic stay, stating that various filings were void ab initio and directing him to, among other things, withdraw, amend, or dismiss other filings.

On August 20, 2020, following a hearing, the Subject Judge issued an order dismissing the adversary proceeding filed in February 2020. On September 15, 2020, Complainant filed an adversary proceeding against _____ and others raising multiple claims, and a few days later, the Subject Judge issued an order dismissing the proceeding without prejudice, generally finding Complainant did not establish he was entitled to the relief sought.

On October 1, 2020, the Chapter 7 Trustee filed in the main bankruptcy case a second motion for sanctions against Complainant for willful violation of the automatic stay. Later that month, the Subject Judge issued an order that, among other things: (1) granted the second motion for sanctions; (2) found Complainant and _____ in contempt of court for intentionally and willfully violating the automatic stay; (3) declared Complainant and _____ vexatious litigants; and (4) enjoined them from filing any further papers in the case or related adversary proceedings unless an attorney signed the papers.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant seeks the “removal and impeachment” of the Subject Judge “for high crimes and misdemeanors, gross incompetence or intentional theft of estate property and turning it over to a non-creditor” in violation of 18 U.S.C. § 153 (Embezzlement against estate). Complainant states the Subject Judge’s conduct suggests that she accepted a bribe from _____, _____ law firm, and _____. He states the Subject Judge “is involved in the theft of an ‘erroneous’ Bankruptcy estate” worth over \$1.4 million.

Complainant then contends that the Subject Judge knew _____ was not a valid judgment creditor and committed bankruptcy fraud by filing a fraudulent claim, and allowed _____ to avoid filing its mandatory proof of claim on the docket so that _____ could not dispute the claim. He asserts that the state court judge took a bribe from _____ counsel to allow _____ to foreclose on _____ property in connection with its mechanic’s lien.

Complainant alleges the Subject Judge lifted the automatic stay in February 2020 to force _____ into the “predetermined” state court trial. He states the Subject Judge refused to hear evidence that the trial was a sham, the state court lacked jurisdiction, and the state court judge took a bribe. Complainant states the Subject Judge, knowing the state court judgment was void, required a liquidation of the property in order to turn it over to _____, which amended to a “judicial theft of property,” a violation of the

United States Constitution, and a “breach of the Code of Judicial Ethics.” He also alleges the Subject Judge personally aided the Chapter 11 Trustee in disclosing to the state court judge that he was under criminal investigation for bribery.

Complainant states that the Subject Judge: (1) reversed her previous position when she denied _____ an evidentiary hearing and a right to file an adversary complaint; (2) blocked _____ right to file an independent action to have the state court judgment set aside, which was a violation of its constitutional rights; and (3) deliberately prevented _____ from pursuing other avenues of relief to set aside the void judgment.

Next, Complainant alleges the Chapter 7 Trustee “engaged in secret negotiations” with _____ attorneys and agreed to a stipulation and settlement without informing _____ attorney. Complainant asserts the Subject Judge was “fully aware” the state court judgment was void, but agreed to the stipulation to turn the property over to _____. He states the Subject Judge abated his objection to _____ proof of claim that _____ and the Trustee had concealed the stipulation for two months by not placing it on the docket, and he contends the Subject Judge lacked the judicial authority to approve the Trustee’s stipulation or to transfer the property to a disputed creditor.

Complainant also alleges that the Subject Judge: (1) stated that an opinion of the Internal Revenue Service’s legal counsel was merely opinion, which showed that she does not follow federal law; (2) falsely stated at a hearing that she received and approved of certain documents provided by _____; (3) ignored the motion to recuse her from the case and issued order prejudicial to him while the motion was pending; (4) demonstrated personal bias by supporting and aiding an attorney who committed a fraud upon the court; (5) abated adversary complaints to aid _____ in obtaining a false judgment in state court; (6) made material misrepresentations in the case as to her intentions to hold an evidentiary hearing; (7) had a conflict of interest; and (8) dismissed an adversary proceeding without considering it.

Complainant states the Subject Judge is either grossly incompetent or has been paid for her decisions. He asserts that, “[b]ased on public information and belief,” the Subject Judge “is political to the extent that she references cases on social media, and plans to run for a political office in the future,” and is looking to the law firm representing _____ for financial support by “doing them a favor” and giving their client the property when they had no valid judgment. He also states the Subject Judge entered an order removing him from the property, against an executive order imposing a moratorium on evictions, and was “no long acting as a judge but as a trespasser of the law” and part of a conspiracy to aid _____ in stealing the property.

Next, Complainant states it appears from the record that the Subject Judge is unable to discharge all the duties of the office by reason of a mental disability. In support, he alleges that at each hearing the Subject Judge allowed _____ attorneys to file numerous frivolous pleadings and “acted like a bully” and “constantly intimidated and mentally abused” _____ attorneys to the point where they did not want to file anything due to fear of being sanctioned.

Complainant states that on May 22, 2020, the Subject Judge issued an order on a motion for sanctions that had been withdrawn, which he asserts was “pure lunacy,” and he states the order was intended to ensure that _____ appeal rights were permanently blocked. “Either way,” Complainant states, “it is a serious sign of emotional immaturity, instability, and lack of legal composure” He asserts the Subject Judge intentionally caused the clerk not to allow a third adversary complaint to appear on the docket and held the complaint in her chambers for over 24 hours before allowing it to be filed and only after another judge instructed her to have it filed on the docket. Complainant also raises allegations against individuals other than the Subject Judge and the state court proceedings, and he attached various documents to his Complaint.

Supplement

In Complainant’s supplemental statement, he states the Subject Judge “does not even understand the difference between” a lawfully executed mortgage between two parties and a unilaterally filed mechanic’s lien. He states the Subject Judge ordered the sale of _____ asset worth \$1.4 million and its constitutionally guaranteed appeal rights to _____ “for a measly \$40,000 case, which is against the law.” He attached documents to his supplement.

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 above-described bankruptcy case and adversary proceedings, 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 committed crimes, was part of a conspiracy, accepted a bribe, was biased or otherwise not impartial, gave special treatment to an entity, engaged in political activity, suffered from a disability, or otherwise 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**.

/s/ William H. Pryor Jr.

Chief Judge