

APR 28 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90027

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, 28 U.S.C. §§ 351-364.

ORDER

_____ (“Complainant”) has filed this Complaint against United States Bankruptcy Judge _____ (“the Subject Judge”), under the Act, 28 U.S.C. § 351(a), and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (“Judicial-Conduct Rules”).

Background

The record shows that in August 2021 Complainant filed a voluntary petition for Chapter 7 bankruptcy, and the next month a trustee was appointed. The trustee then applied to appoint _____ to represent the trustee, and the Subject Judge entered an order approving the employment of _____. In September 2021 Complainant filed a motion to convert the case to a Chapter 13 case, and the Subject Judge granted the motion the next month.

In October 2021 _____ filed an application for compensation, and Complainant filed objections to the application, contending most of his charges should not have been billed. On the same day Complainant filed her objections, _____ filed a notice of appearance, a response to the objections, objections to confirmation of the Chapter 13 plan, objections to Complainant's claim of exemptions, a motion to determine the value of lawsuits Complainant had filed or was planning to file, and a motion to compel Complainant to file monthly reports on the status of pending litigation. Complainant then filed a motion for temporary injunctive relief against _____, alleging he "commenced revenge taking" against her because she objected to his improper charges, and she also filed a motion to strike _____ filings because he was not a person in interest in the case.

After that, both Complainant and _____ filed numerous documents seeking various types of relief. Complainant's filings included motions (1) seeking disciplinary action against _____ and alleging he committed a crime by impersonating a public servant;

(2) alleging the Subject Judge engaged in misconduct; and (3) seeking the Subject Judge's recusal because she had shown deliberate indifference to _____ unlawful conduct in the case. In November 2011 _____ removed a lawsuit Complainant had filed against him and others in state court to the bankruptcy court as an adversary proceeding.

In December 2021 the Subject Judge entered a *sua sponte* order directing the parties to cease submitting repetitive and duplicative filings in the case and adversary proceeding, noting the large volume and number of documents filed and the "malicious and vicious content" in those filings. On the same day, the Subject Judge issued an order directing the parties to show cause as to why the bankruptcy case and adversary proceeding should not be dismissed.

In January 2022 the Subject Judge issued an order denying Complainant's motions seeking her recusal or disqualification, generally finding Complainant did not establish a basis for her recusal. In the order, the Subject Judge stated:

Any reasonable person reviewing the documents in this case would be amazed and offended by the sheer number of documents filed by [Complainant], the duplicity of the documents, the vicious and mean-spirited accusations included therein, and further by the fact that [Complainant] has not offered evidence of any kind to prove or substantiate anything she has alleged.

On the same day, the Subject Judge issued an order finding Complainant continued to file repetitive filings and stating the court would summarily rule on motions when appropriate. Later in January 2022, the Subject Judge issued an order denying Complainant's motion to appear at a hearing by telephone, stating the nature of the proceedings required the in-person attendance of the parties.

In February 2022 the Subject Judge issued an opinion and order finding sanctions were appropriate against Complainant under Federal Rule of Bankruptcy 9011 and the court's inherent authority. The order set out that (1) a "spot review" of Complainant's filings showed that in almost every document "she makes malicious accusations of unethical behavior and misdeeds against _____, the Court, and at times against almost everyone involved in this case"; (2) Complainant's credibility had been called into question by her inconsistent representations as to the value of her property, her income, and her expenses; (3) she had not provided any evidence in support of her allegations and they had no reasonable factual basis; (4) her filings were objectively frivolous and were made for improper purposes; and (5) "her behavior has been nothing short of relentless harassment." The order directed, among other things, that (1) any future filing must comply with certain guidelines; (2) Complainant shall appear at in-person hearings as required; and (3) if Complainant violated the terms of the order or any other orders, the court would determine what action to take, which could include dismissing or converting the case. There

continues to be activity in the bankruptcy case and adversary proceeding.

The record also shows that Complainant has filed motions for leave to appeal interlocutory orders, which have been docketed in the district court. The district court has granted her motion to stay the bankruptcy orders until the court had sufficient opportunity to assess the motions for leave to appeal.

Complaint

Complainant alleges the Subject Judge violated the “Code of Judicial Conduct” by falsely accusing her of wrongdoing, threatening her with dismissal of her bankruptcy case, banning her from hearings, “aligning” with _____ to invade her privacy and “to aid and abet his harassment” of her, refusing to rule on her motions, “lying about” her, and denying her “access to the court clerk and its [sic] personnel.” Complainant asserts the Subject Judge’s “unlawful conduct” was “in retaliation and for purposes of revenge taking as payback for [Complainant’s] having appealed her orders and confronted her abuses and malfeasance.”

Complainant contends that between October 2021 and January 2022 the Subject Judge “refused to rule” on multiple motions Complainant filed concerning _____ “ongoing unlawful conduct,” which allowed him to “saturate [Complainant’s] bankruptcy case record with evidence of his ongoing malicious defamation, libel, slander, invasion of privacy, and stalking.” Complainant states that the Subject Judge’s refusal to hold hearings on her objections

to _____ filings led to her filing motions to recuse the Subject Judge, and that the Subject Judge then began targeting her with a series of unlawful and retaliatory acts. She also states that, during multiple hearings, the Subject Judge “targeted [her] with malicious defamation,” often repeating _____ “false accusations.”

Next, Complainant alleges the Subject Judge “rubber stamped” fees paid to _____ when they had not be “forensically audited to authenticate the charges.” She asserts that the day after she engaged in “whistleblowing” as to the fees, the Subject Judge retaliated against her by turning over her confidential bank records to _____ in violation of “The Right to Privacy Act.” Complainant states, “Each of [the Subject Judge’s] orders have included malicious defamation, libel, slander, and false accusations of wrongdoing against [Complainant] and threats of dismissal of her bankruptcy petition.” Complainant states she fears the Subject Judge will retaliate against her for filing the judicial complaint.

Complainant asserts the Subject Judge “fabricates lies” about her to support her “revengeful official acts” and falsely accused her of violating a court order concerning contact with the clerk’s office. Complainant contends the Subject Judge would not allow her to attend hearings by telephone despite that she was “too ill to attend,” which deprived her of her right to unfettered access to the court. Complainant states the Subject Judge has refused to recuse herself from the case despite that she “repeatedly displayed bias, hostility, and has verbally harassed and maliciously defamed [Complainant] in open court and within her orders.” Complainant then

contends the Subject Judge exhibited “bizarre” and “unpredictable” conduct when she “abruptly reversed” an order she entered directing two banks to turn over Complainant’s records to the Chapter 13 trustee. Complainant quotes statements the Subject Judge made at a February 2022 hearing concerning her attempt to delay the hearing and concerning her motives for her actions. 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.

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 proceeding, 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 acted with an illicit or improper motive, engaged in retaliation, made false statements, committed crimes, was biased, treated Complainant in a demonstrably egregious or hostile manner, or otherwise engaged in misconduct.

The allegations of this Complaint are "directly related to the merits of a decision or procedural ruling," under Judicial-Conduct Rule 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," under Judicial-Conduct Rule 11(c)(1)(D). For those reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge