

JUL 29 2022

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint Nos. 11-22-90091 and 11-22-90092

ORDER

An individual has filed a Complaint against two United States bankruptcy judges 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.

Background

The record shows that in September 2019 Complainant filed a voluntary petition for Chapter 13 bankruptcy. After various proceedings, she filed a sixteenth amended Chapter 13 plan. In September 2021 Complainant filed an “Urgent Motion to Adjourn” an upcoming confirmation hearing, which the second Subject Judge denied, noting the case was almost two years old and needed to be confirmed or dismissed. Following the confirmation hearing in September 2021, the second Subject Judge entered an order finding

that a plan proposed by the trustee at the hearing was the most likely to bring Complainant's delinquency current, to allow her to make her monthly payments, to resolve her issues with her creditors, and to safeguard her home from creditors. The second subject judge confirmed the Chapter 13 plan as amended. The first Subject Judge then was assigned to the case.

In January 2022 Complainant filed a document stating that she had not been served with the order confirming the plan. The next month, the trustee filed an affidavit stating that Complainant had defaulted under the plan, and the first Subject Judge entered an order dismissing the case in the light of the affidavit. Complainant filed a motion to set aside the order dismissing the case, which the first Subject Judge granted in March 2022. Complainant then filed a motion seeking to direct the trustee to explain certain payments to be made under the plan, and she filed other documents taking issue with various matters. After a hearing, the first Subject Judge denied the motion.

Complainant appealed the order. She then filed multiple motions seeking various types of relief, including a motion to proceed *in forma pauperis* on appeal and a request to certify a direct appeal to this Court, and the first Subject Judge denied those motions. The district court later dismissed the appeal for failure to pay the appropriate fees. In July 2022 the first Subject Judge entered an order directing Complainant to show cause why sanctions should not be imposed on her in light of her repetitive, frivolous, and vexations filings.

Complaint

Complainant alleges the Subject Judges “used coercion and fraud” to force her into “debt bondage” and empowered the trustee and an attorney “to serve as overseers of the debt bondage they have placed” her in. She states the Subject Judges allowed the trustee to increase her Chapter 13 plan payments when those payments should have been lowered, and that the second Subject Judge was not willing to accept any of her proposed plans due to actions by the trustee. Complainant asserts she was “under duress” at the September 2021 confirmation hearing, and that the second Subject Judge confirmed a plan that was presented to her for the first time minutes before the hearing and that required her to pay a greater amount than what the trustee had told her she would pay.

Complainant then generally takes issue with the actions of the trustee and contends that the Subject Judges failed to take any action when she brought the trustee’s improper conduct to their attention. She states in part that the Subject Judges empowered the trustee to draft an order reinstating the case and that the trustee “falsely signed” an affidavit stating she was delinquent in her payments. She alleges the first Subject Judge violated her rights, including her rights under the Freedom of Information Act and her right to self-representation. Complainant next alleges that the first Subject Judge retaliated against her for filing a notice of appeal in the case, and that he prevented her from receiving notices, denied her motions, and interfered with her appeal. Finally, she takes issue with the actions of individuals other than the Subject Judges, and

she takes issue with the processing of her documents, her ability to access documents, and her failure to receive notices from the court.

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 Judges’ official actions, rulings, findings, and orders in the above-described case, the allegations are directly related to the merits of the Subject Judges’ decisions or procedural rulings. Complainant’s remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject

Judges used coercion and fraud, retaliated against her, 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