

MAR 16 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90014

ORDER

An individual has filed a Complaint against a United States bankruptcy judge 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.

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 March 2022 a company filed a voluntary petition for Chapter 11 bankruptcy, and Complainant was listed at the manager of the company. The same month, the debtor filed an adversary proceeding against another company, seeking to determine the right, title, and interest as to certain real property.

The plaintiff later filed a motion for summary judgment. In August 2022, the defendant filed a pleading that, among other things, sought a cross-motion for summary judgment and alleged Complainant sought to commit fraud by transferring property between entities he owned to avoid a judgment a creditor had obtained against him.

At a hearing on the motions for summary judgment, counsel for Complainant contended that Complainant “got played by two notorious debt collectors,” who were “taking advantage of a scrivener’s error in a pro se deed to steal a \$12 million building for \$5.” In late September 2022, the Subject Judge entered an order denying the plaintiff’s motion for summary judgment and granting the defendant’s cross-motion for summary judgment. The plaintiff and Complainant filed motions for reconsideration.

Afterward, Complainant filed a “Notice of Filing a Recording,” in which he stated that a recording made in a public location in January 2022—before commencement of the underlying bankruptcy case—showed that the two individuals previously identified as “notorious debt collectors” were engaged in criminal activities, that they stated a bankruptcy judge could find they had engaged in grand theft, and that one of the individuals stated, “[the Subject Judge] can find a way.”

At a hearing in November 2022, the following exchange took place:

[Complainant]: These guys were recorded saying a bankruptcy judge –

[Defendant's Counsel]: Your Honor, I'm going to object to this.

[Complainant]: I just want to finish. You can object.

[Defendant's Counsel]: I'd like to object before you do so. I don't know if the Court saw it, but [Complainant] filed --

[The Subject Judge]: I saw it, but I'm going to disregard it, because I have no idea what it's relevant to.

Later in the hearing, the following exchange took place:

[Complainant]: I have no doubt that you're a great judge and you're fair and you're honest. I'm disturbed that the [defendant] party on January '22 --

[Defendant's Counsel]: Your Honor, I'm going to object again. This is --

[Complainant]: -- knew that [the Subject Judge] will be the Judge in the bankruptcy case.

[Defendant's Counsel]: Your Honor, this is [Complainant] again trying to refer to what was clearly a privileged attorney/client communication that he deliberately intercepted.

[Complainant]: No. It wasn't deliberate.

[The Subject Judge]: I'm going to stop you.

[Complainant]: It was in a public place. It was recorded in a public place.

[The Subject Judge]: [Complainant], we're done. [Complainant], stop.

[Complainant]: Okay, sorry.

[The Subject Judge]: Stop.

[Complainant]: I apologize.

[The Subject Judge]: I just want to point out to you, because I'm not going to listen to that recording. I'm going to strike it from the record. I told you before, you don't just shove stuff on the docket.

I'm going to tell you this, because you've attended a lot of my hearings by Zoom. What is the first thing I say? It is a felony under [state] law to record a conversation without the permission of the people you are recording.

[Complainant]: Not in a public place. And this was approved by law enforcement, by the FBI --

[The Subject Judge]: [Complainant], stop. I don't care.

[Complainant]: It's not a felony.

[The Subject Judge]: [Complainant] --

[Complainant]: Okay. Sorry.

[The Subject Judge]: I don't care.

[Complainant]: Okay.

[The Subject Judge]: All right?

[Complainant]: Okay. But I'm just saying, it's not a felony.

[The Subject Judge]: We're done.

[Complainant]: Okay.

[The Subject Judge]: I'm sorry that I had to raise my voice, but sometimes with you it seems like you will not listen unless I have to do that, and I don't like to do that. . . .

After additional proceedings, Complainant stated, "I apologize if I got you upset, Judge," and the Subject Judge responded, "You didn't get me upset. You got me angry, because you wouldn't stop talking when I asked you to." After the hearing, the Subject Judge entered an order striking the notice of filing of the recording.

Later in November 2022, Complainant filed a motion to recuse the Subject Judge. In the motion, Complainant alleged that the Subject Judge attempted to blackmail or extort him not to use the recording and committed the felony of "malicious threat." He asserts that when he described the recording at the hearing, the Subject Judge "seemed very nervous" and "knew she ha[d] been caught," and that when he stated that the recording showed one of

the participants knew she would be assigned to the case, she “flipped and was screaming ‘I already said that recording is a felony,’” which gave him the impression that she was threatening him to hide her involvement in the matter and to protect herself from criminal prosecution. He also stated, “It seems clear that [the Subject Judge] knows that this case is a grand theft and she is part of it, or helping her friend who is a part of the ‘scheme.’”

Complainant also filed a motion to reconsider the striking of the recording, which the Subject Judge denied. In her order, the Subject Judge noted the basis for striking and for declining to listen to the recording was because it was filed without any associated pleading explaining why it was being filed, that the court’s mention that a recording without consent was a felony under state law was not a finding that the recording was made in violation of state law, and that if Complainant believed she had committed a crime, he should bring those accusations to the appropriate authorities and file a judicial complaint against her.

In December 2022, the Subject Judge denied the motion to recuse on the ground that it did not adequately set forth any basis for recusal. The next month, Complainant filed another motion to recuse, stating a YouTube video “approved by” the Federal Bureau of Investigation and others showed that the Subject Judge was under a criminal investigation. The Subject Judge denied the motion to recuse for the reasons stated in the orders denying previous recusal motions. Complainant then filed, among other things, an

expedited motion to remove furniture and other items from the building.

In February 2023, the Subject Judge entered an order directing Complainant to show cause why he should not be prohibited from filing additional pleadings in the court without leave, stating the record showed that he had “filed motions, pleadings, and other filings that are incomprehensible, laced with conspiracy theories, duplicates of motions already denied, and contain unfounded and, in most instances, completely false, statements about parties involved in this case as well as about the Court.” The next month, the Subject Judge entered an order finding that Complainant had continued to submit improper pleadings despite multiple warnings, and directing that any document he sought to file would be emailed to the Subject Judge who would advise the clerk’s office whether the pleading would be docketed in the case. There continues to be activity in the case.

The record also shows that in May 2022 another company filed a voluntary petition for Chapter 11 bankruptcy, and Complainant was listed as the manager of the debtor. The debtor filed a motion to transfer the case to the Subject Judge, which another judge granted. After various proceedings, in December 2022, the Subject Judge entered an order determining that certain residential leases between Complainant as tenant and the debtor as landlord were void and unenforceable and directing that no person could interfere with the trustee’s use and rental of the units that were the subject of the leases. The trustee then filed an emergency motion

to bar Complainant from the debtor's premises, systems, and accounts in the light of the Subject Judge's order.

The Subject Judge issued an order directing Complainant to show cause as to why he should not be required to hire counsel or seek leave of court before filing anything with the court. Complainant filed a motion to recuse the Subject Judge, alleging she was involved in criminal activities in connection with the above-described adversary proceeding and referring to the arguments made in that matter. The Subject Judge later denied the motion to recuse on the ground that it did not adequately state any basis for recusal.

Later in December 2022, after a hearing, the Subject Judge entered an order temporarily barring Complainant from the property and from interfering with operations of the business conducted on the property. The next day, the Subject Judge entered an order imposing filing restrictions on Complainant due to his repeated filing of baseless pleadings despite multiple warnings. After additional proceedings, in March 2023, the Subject Judge entered an order imposing further filing restrictions on Complainant because of his continued filing of baseless pleadings. There continues to be activity in the case.

The record also shows that in March 2023 Complainant filed a civil complaint against the Subject Judge, and a district judge entered an order striking the complaint as a shotgun pleading.

Complaint

Complainant alleges the Subject Judge, the two individuals described above as “debt collectors,” and a trustee are “trying to steal” two buildings he owns, and that the Subject Judge issued decisions in an effort to cover up crimes. Complainant asserts a recording made in a public place “clearly implicated” the Subject Judge in crimes, and that the Subject Judge threatened him and extorted him during a hearing by stating he could not mention or use the recording. He states that when he informed the Subject Judge that she was under a criminal investigation, she “screamed” and lied by stating she was not. He asserts the Subject Judge “acted like an insane person” at the hearing, and then began to issue “crazy orders against” him in retaliation for his statement. Complainant states that at the end of a different hearing in December 2022, “you turned to me and said quietly, I think everybody heard it, ‘It doesn’t help you what you did last week.’”

Complainant then takes issue with the Subject Judge’s “illegal” order barring him from entering one of the properties. He contended the order constituted an “illegal ejection” because it prevented him from entering his only place to live, and that it was issued in retaliation for him stating that she was under investigation. He also states the Subject Judge lied by stating he could not see her emails through a public records request, and he takes issue with the Subject Judge’s orders denying his motions to recuse. Finally, Complainant asserts the Subject Judge made corrupt decisions, worked with others to steal assets, and sought to make her and her family

rich. He also raises allegations against individuals other than the Subject Judge, and he attached documents to his Complaint.

Supplement

In his supplemental statement, Complainant reiterates his allegations and asserts that he “call[ed] for an internal investigation” into the Subject Judge’s “criminal activities,” that certain YouTube videos that were “approved” by the Federal Bureau of Investigation establish that she is under criminal investigation, and that she lied by stating she was not under criminal investigation. Complainant also lists various lies the Subject Judge allegedly told during the bankruptcy proceedings. He states that at a February 2023 hearing the Subject Judge admitted the recording he sought to file was legal and that she committed a felony by threatening him with a felony. He contends that when he stated that the recording mentioned the Subject Judge’s name, she “exploded, screaming at [him] that recording is a felony,” although she knew the recording was legal.

Complainant again takes issue with the Subject Judge’s failure to recuse, and he alleges that she failed to recuse because she is afraid two individuals would “not pay [her] the bribes [she] agreed on.” He asserts the two individuals offered her an additional bribe for her to refuse to arrange a hearing on his motion to remove furniture, and that she refused to schedule a hearing on a motion for reconsideration because she knew she “might lose the bribes.”

Next, Complainant states that a lawyer involved in the bankruptcy cases has drinks with the Subject Judge's husband, her "partner in crime," that they discuss cases, and that her husband "passes to [the Subject Judge] what [the attorney] needs and [the Subject Judge does] it." He takes issue with the Subject Judge's order granting summary judgment, contending issues of material fact remained and that she had no jurisdiction to issue the ruling that she did. Complainant then states a conservator appointed in a state-court proceeding made antisemitic comments about him, he filed affidavits about it, the Subject Judge told him he could not mention it, and she then awarded the conservator "additional \$300K in conservator's certificate." Finally, Complainant asserts the Subject Judge exchanged "Ex-Parte Illegal Emails." He attached documents to his supplement.

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.

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainant's allegations concern the substance of the Subject Judge's official actions, rulings, findings, and orders in the above-described cases, the allegations are directly related to the merits of the Subject Judge's decisions or procedural rulings. Judicial-Conduct Rule 11(c)(1)(B). 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, committed or covered up crimes, colluded or conspired with others, lied, threatened Complainant, retaliated against him, treated him in a demonstrably egregious and hostile manner, accepted bribes, engaged in improper *ex parte* communications, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge