

JUL 19 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90084

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.

Background

The record shows that in 2022 Complainant filed a *pro se* voluntary petition for Chapter 11 bankruptcy. After the Subject Judge issued multiple orders overruling Complainant’s objection to certain claims, Complainant filed a motion to recuse the Subject Judge, alleging in part that he had been “dismissive, and harsh, and extremely negative” at a hearing. Complainant also alleged that, at a different hearing, she pointed out that a certain attorney was not eligible to practice in the case, and the Subject Judge “jumped to his defense,” stated the attorney was “a well experienced trial

bankruptcy lawyer,” and dismissed Complainant’s statements “as if they did not court or exist.” Complainant later withdrew the motion to recuse.

A creditor filed a motion to convert the case to a Chapter 7 case, and Complainant filed a “Motion for Judicial Determination” related to a creditor’s request for fees. After two hearings, the Subject Judge issued an order granting the creditor’s motion to convert and directed the clerk to convert the case to a Chapter 7 case based on Complainant’s failure to comply with the terms, conditions, agreements, and representations made at one of the hearings and based on the entire record of the case. There continues to be activity in the case.

Complaint

Complainant alleges that the Subject Judge treated her in an egregious and hostile manner and that she believes the “horrible treatment she received, a conversion to Chapter 7 is retaliation for filing a Motion to Recuse, which, then, out of fear of retaliation, [she] withdrew.” She states the conversion “was threatened long before” the motion to convert was filed, that the argument for conversion “was never even heard” by the Subject Judge, and that the Subject Judge converted her case because she refused to accept a settlement that would have resulted in foreclosure. Complainant alleges the Subject Judge has a personal bias and prejudice against her, was biased in favor of a creditor and its attorney, and created a “hostile case environment which has frightened [her] to the point that she is unable to speak at a hearing, or defend herself, or speak

on her behalf.” She then states the Subject Judge “displayed overt anger, hostility, and oppression of this elderly female pro-se Debtor as evidenced by his open hostility, words, actions, deeds and expressions” at two hearings. She asserts the Subject Judge “wants to strip a Debtor of everything that she has, at all costs, without any legal basis, based upon a predetermined bias that prevents him from seeing both sides.”

Complainant contends the Subject Judge “predetermined the outcome” of the case by using a judgment from a prior case to determine that she was not credible, which prevented her from receiving a fair hearing. She alleges the Subject Judge abused his power by considering the previous judgment, showed personal bias against her by reading the judgment out loud, and sought to berate, embarrass, and demean her by emphasizing parts of the judgment “to ensure her silence.” Complainant contends she was required to appear in person “just hours before” a hearing when she was in “horrific back pain” and when all other parties were allowed to appear remotely, which “caused a lot of stress and agony.” She states she made a comment about an attorney at a hearing, and the Subject Judge “responded angrily” that the attorney was highly respected.

Next, Complainant asserts she is being “framed” by a creditor with the Subject Judge’s “complicity and blessings,” and she alleges the Subject Judge showed “obvious favoritism” to a creditor, emboldened an attorney to ask for additional fees, and approved the fees without giving her an opportunity to object and without

requiring any documentation. Complainant also states the Subject Judge “refused to hold a hearing” on her Motion for Judicial Determination, “never looked” at her objection to a proof of claim, and “ignored” a certain state-court ruling on attorney’s fees. Complainant asserts she “is a victim of an unfair, angry, biased judge” who has only been a judge for a brief amount of time and who “lacks the temperament and decorum for such a high position.” She states the Subject Judge was previously “an aggressive creditors attorney but is unable to transition into an unbiased and fair judge.” Finally, she contends that the Subject Judge violated the Code of Conduct for United States Judges and that he should recuse himself from her case. She attached a document 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.

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 case, 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, was biased or otherwise not impartial, treated Complainant in a demonstrably egregious and hostile manner, retaliated against her, abused his power, violated the Code of Conduct for United States Judges, 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