

MAR 12 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90022

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 Complainant filed a voluntary petition for Chapter 13 bankruptcy and a form stating that her landlord had obtained an eviction judgment against her. A creditor then filed a motion to lift the automatic stay so that it could proceed with the eviction action. A courtroom deputy issued a notice of a hearing on the motion for relief from stay, and Complainant filed a motion to strike the motion for relief from stay. Complainant then filed a notice that the case would be converted to a Chapter 7

case, and the Subject Judge issued an order setting out required actions upon conversion. The case remains pending.

Complaint

Complainant states that a “bankruptcy clerk allowed me to view the correspondence between my bankruptcy judge and the plaintiff[’s] attorney,” and that the attorney “informed the judge that the sheriff’s office stated they would not serve [t]he writ of possession unless the attorney filed a new eviction.” Complainant states the Subject Judge never made her aware that a hearing on a motion for relief from stay was scheduled, and that the Subject Judge was keeping the bankruptcy case open for the hearing when the case should have been dismissed. She asserts the Subject Judge “is now corresponding with the creditor[’]s attorney and I feel making plans to have me removed from my dwelling, although a trust is in place.” Finally, she contends that the Subject Judge is harming her and her child and treated her unjustly.

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, 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