

FILED
ELEVENTH CIRCUIT
JUDICIAL COUNCIL

OCT 16 2024

CIRCUIT EXECUTIVE

CONFIDENTIAL

Before the Judicial Council of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90190

ORDER


Before: WILSON, ROSENBAUM, and BRANCH, Circuit Judges; WALKER and BEAVERSTOCK, Chief District Judges.

Pursuant to 11th Cir. JCDR 18.3, this Judicial Council Review Panel has considered the materials described in JCDR 18(c)(2), including petitioner's complaint, the order of Chief United States Circuit Judge William H. Pryor Jr., and the petition for review filed by petitioner. No judge on this panel has requested that this matter be placed on the agenda of a meeting of the Judicial Council.

The Judicial Council Review Panel hereby AFFIRMS the disposition of this matter by Chief Judge Pryor. The petition for review is DENIED.

Done this 16th day of October, 2024.

FOR THE JUDICIAL COUNCIL:



United States Circuit Judge

AUG. 21 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90190

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 establishes that Complainant filed a voluntary petition for Chapter 13 bankruptcy. After various proceedings, a bankruptcy judge who is not the Subject Judge granted Complainant a discharge, and the case was later closed. Years later, Complainant filed a motion to reopen the case on the ground that a creditor violated the discharge order, and she also filed motions for contempt and sanctions against the creditor.

The Subject Judge was then assigned to the case, granted the motion to reopen in part, and reopened the case for the limited

purpose of determining whether the creditor was in contempt for violating the discharge injunction. The Subject Judge later entered an order denying Complainant's motions for contempt and sanctions on the grounds that certain disputed fees had not been discharged and that *res judicata* barred her from bringing claims already adjudicated by the court. The district court and this Court later affirmed the order denying Complainant's motions.

The record also establishes that, during the above-described proceedings, Complainant filed a *pro se* voluntary petition for Chapter 13 bankruptcy. She then filed, among other things, amended motions for contempt and sanctions against a city, and the Subject Judge denied the third amended motion for contempt and sanctions. In a footnote, the Subject Judge stated that a review of Complainant's *pro se* filings in the state court and in her prior bankruptcy case "leads to the inescapable conclusion that the Debtor is prone to excessive and frivolous filings." After a hearing, the Subject Judge entered an order denying confirmation of Complainant's Chapter 13 plan, dismissing the case, and allowing her to convert the case, and the case was converted to a Chapter 7 case. The Subject Judge later entered an order granting a discharge to Complainant.

Afterward, Complainant filed multiple motions seeking various types of relief, as well as an adversary complaint against a creditor. The Subject Judge then issued an order stating that Complainant's "barrage of filings, and requests for reconsideration, have made it virtually impossible for the Case to be efficiently

administered.” The order directed Complainant to show cause why she should be permitted to file additional *pro se* pleadings in the case and temporarily restricted her from filing additional pleadings pending the outcome of the show-cause hearing. The Subject Judge later dismissed the adversary proceeding on *res judicata* grounds. The Chapter 7 case remains pending.

Complaint

Complainant alleges the Subject Judge “has been very difficult to deal with” and “is abusive, is looking to harass me and is now discriminating against me because I am not a lawyer.” She states that in the second above-described case, the Subject Judge “forced a confirmation hearing” after denying four of her requests for a continuance, and then failed to rule on the disputed claims and “failed to differentiate the status of the disputed claims.” She states that after a trial, the Subject Judge “did not rule and left everything under advisement” and dismissed all motions requesting a ruling and clarification, which was “abusive.”

Complainant also alleges the Subject Judge discriminated against her for not having a lawyer by barring her from filing pleadings or appeals as a *pro se* litigant, which violated her constitutional rights to due process and access to the court. She takes issue with the Subject Judge’s dismissal of the adversary proceeding based on *res judicata* and contends that the Subject Judge “ignored the confirmation order” and “only looked at the proposed plan which was not approved as is.” 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.

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 was abusive, harassed her, discriminated against her, 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