

SEP 06 2024

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90201

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 counseled voluntary petition for Chapter 13 bankruptcy and a plan that provided for monthly payments to the trustee. After various proceedings, the trustee filed a motion to dismiss the case on the ground the Complainant failed to make payments in accordance with the plan. Complainant then filed *pro se* documents stating her attorney was not communicating with her and that the amount she allegedly owed to the trustee was incorrect. After additional

proceedings, Complainant's attorney filed a motion to withdraw from the case, which the Subject Judge granted.

After a hearing, the Subject Judge entered an order denying confirmation and dismissing the case due to Complainant's failure to make required payments. Complainant filed a motion for reconsideration arguing that she failed to receive a fair hearing because her questions and concerns were not addressed. The Subject Judge entered an order denying the motion for reconsideration. Complainant then filed a response requesting in part that the Subject Judge recuse herself from the case, and the Subject Judge entered an order denying the requests for relief.

Complaint

Complainant states the Subject Judge failed to respond to her questions, did not listen to her during hearings, would not explain certain matters to her, and will be responsible for her losing her home. Complainant states that her attorney refused to answer her questions, and she complains that the Subject Judge stated she had a very good attorney several times. Complainant complains the Subject Judge awarded her attorney legal fees "for five years of services when she did not do [] one full year." Finally, Complainant takes issue with the amounts the trustee requested for monthly payments. 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 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 engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge