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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-24-90274

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 *pro se* voluntary petition for Chapter 11 bankruptcy. An attorney, on behalf of a creditor, filed objections to Complainant’s exemptions, and Complainant filed objections to the creditor’s claim. Complainant then 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 the creditor’s 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 count or exist.” Complainant later withdrew the motion to recuse.

The creditor filed a motion to convert the case to a Chapter 7 case. After two hearings, the Subject Judge issued an order overruling Complainant’s objection to the creditor’s claim. The Subject Judge also 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 on the entire record of the case. Complainant filed a motion to disqualify the Subject Judge, alleging he was biased against her and in favor of the creditor and displayed “overt anger, hostility, and oppression” at the two hearings. She then filed additional motions to recuse or disqualify the Subject Judge, alleging in part that he was biased against her, erroneously found her to be not credible, denied her due process, and was advocating for the creditor. She later withdrew three of the motions.

The Subject Judge issued an order directing Complainant to show cause why sanctions should not be imposed in the light of her “repetitive, frivolous, and vexatious filings” in the case. The Subject Judge then issued Findings of Fact and Conclusions of Law determining that Complainant “has not shown herself to be honest and forthright” in the case and had made a mockery of the bankruptcy process. The Subject Judge also issued an order dismissing the case

with prejudice for two years and stating that any future filings in the case without the signature of counsel would be stricken.

Complaint

Complainant states the Subject Judge “hates pro-se parties to the point he overtly discriminates against them in favor of the creditor and defies bankruptcy rules,” “makes the same nasty allegations in different pro-se bankruptcy cases which prove his bias and prejudice,” was a “strong advocate for creditors['] rights” before becoming a judge, “is unable to be impartial,” “becomes personally involved with his ‘friends’ and ‘fellow bankruptcy attorneys’ and works against the federal laws to ensure his friends get paid,” “is mean, nasty, insulting, and demeans the Debtors in front of him,” “is an evil man without a conscience,” exhibited “facial expressions of anger, frustration and disbelief” that are “clear indications of his bias and prejudice,” and “is unfit to be a judge.” Complainant asserts that the Subject Judge “has a history of destroying female pro-se in the bankruptcy court,” and that she is aware of “one other pro-se where [the Subject Judge] says to her and makes the exact same accusations using the same words over and over again.”

Complainant states the Subject Judge is friends with the creditor’s attorney “and perhaps even the owner of” the creditor, engaged in *ex parte* communications with the creditor, “became personally involved to help his attorney friend,” approved everything the creditor sought without requiring proof, refused to consider certain documents, and failed to schedule timely hearings.

Complainant alleges the Subject Judge rushed a hearing to attend a luncheon, did not give her time to speak, and “kept repeating, do you understand? As if I was stupid.” She alleges that, during another hearing, the Subject Judge “used it as an opportunity to impress other attorneys, students, and made it a public televideo [sic] without my permission and at that hearing, berated me and embarrassed me and told me I was not credible and that he did not believe anything that I said.”

Complainant states the Subject Judge accused her of hiding significant assets, did not allow her to explain why she did not list the assets on her schedules, and believed the creditor’s attorney that she was hiding assets without any proof. She alleges that the Subject Judge threatened her by stating the case would be converted to a Chapter 7 case if she did not accept a settlement agreement, which frightened her and would cause her to lose her “only 2 assets in the world.” Complainant alleges the Subject Judge “took steps to harm” her, “verbally and emotionally displayed undue anger and interest in seeing [the creditor] get paid,” “became visibly angry” when she stated certain money she reported was spent, and assessed a payment “for the purpose of keeping me in Chapter 7 with at least one unsecured debt.”

Complainant alleges the Subject Judge’s “scathing horrific” findings of fact and conclusions of law were “based upon his biased and prejudiced opinion of me, and ignored all the law in doing so.” She states that the Subject Judge failed to mention that the Chapter 7 trustee did not agree with what was happening to Complainant,

and that the Chapter 7 trustee “refused to continue the case under this harsh treatment and asked to resign.” She states, “These are the same kinds of orders he is entering for another pro-se female, with the exact same discrimination, prejudice and bias.” She contends the Subject Judge’s findings “are angry, prejudicial, extremely personal and vile and incorrect.” She states she later discovered that either the Subject Judge or the creditor “had entered the Findings into the internet and social media for the purpose of embarrassing me and harming my reputation.” Finally, she contends the Subject Judge denied her rights by ordering that she could not appear *pro se* at any bankruptcy hearing.

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, treated her in a demonstrably egregious and hostile manner, engaged in improper *ex parte* communications, was biased or otherwise not impartial, used his office to obtain special treatment for others, had a conflict of interest, discriminated against Complainant or others, 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