

MAY 16 2025

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-25-90078

ORDER

An attorney has filed a Complaint against a United States district 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 an individual, on her own behalf, as personal representative of her deceased husband's estate, and as next friend of her minor child, filed a civil complaint against multiple defendants through Complainant, who is an attorney and sister of the deceased. Complainant, on behalf of the same plaintiffs, also filed a second civil complaint against two defendants. The claims in both complaints arose out of the death of the individual plaintiff's husband, Complainant's brother, during a police encounter, and both cases were assigned to the Subject Judge.

In the first case, the plaintiffs filed an amended complaint, and the Subject Judge entered an order dismissing the amended complaint on the ground that it was a shotgun pleading. The plaintiffs filed a second amended complaint. After additional proceedings, the plaintiffs filed a motion for continuance in which Complainant stated that recent instructions from the individual plaintiff “have created a potential conflict of interest that prevents the undersigned from fulfilling her fiduciary obligations to one or more of the plaintiffs,” and that it was “unclear whether [Complainant] may continue to represent any of the plaintiffs, and if so, in what capacity.” The next day, the individual plaintiff filed a *pro se* handwritten document stating that she had informed Complainant of her desire to dismiss both cases and stating, “My spiritual journey and relationship with God demand I dismiss them all as a demonstration of forgiveness.”

On the same day the handwritten document was filed, the Subject Judge issued an opinion and order that dismissed the second amended complaint as a shotgun pleading and denied the plaintiffs’ motion to file a third amended complaint because it would have been futile. The Subject Judge stated that, hours before entry of the order, the individual plaintiff had filed what appeared to be a motion to dismiss the case, but because the document was not filed through her attorney and because it was unclear whether it was filed with her attorney’s knowledge, the court did not consider the document. This Court affirmed the dismissal of the second amended complaint as a shotgun pleading, and reversed and

remanded with instructions to dismiss a state-law claim without, instead of with, prejudice.

In the second case, the plaintiffs filed a motion to stay the case pending the outcome of the first case, and the Subject Judge granted the motion. After the final judgment was entered in the first case, the Subject Judge lifted the stay in the second case. The plaintiffs later filed a renewed motion to stay, pending the outcome of the appeal in the first case.

The Subject Judge issued an order denying the motion to stay. The order stated that the individual plaintiff had submitted a letter requesting that both cases be dismissed, that Complainant appeared to be continuing to prosecute both cases, and that under state rules of professional conduct, a lawyer was required to abide by a client's decisions concerning the objectives of representation. The Subject Judge scheduled a hearing to determine what, if any, conflict existed between Complainant and the plaintiffs regarding the disposition of the case and whether it should proceed. The individual plaintiff then filed a *pro se* document in which she confirmed her desire to dismiss the case, stated the Complainant was no longer her attorney, and represented that Complainant had stated she intended to file motions to dismiss and to withdraw but had not done so. The document was docketed as a motion to dismiss.

Complainant filed a motion to continue the upcoming hearing and to reconsider the denial of the motion to stay, and the Subject Judge denied the motion. Complainant also filed a motion to

recuse the Subject Judge on in part the ground that he was biased and prejudiced against her and had attempted to interfere with the appeal in the first case.

At a hearing, the individual plaintiff testified that she previously had asked Complainant to withdraw as the attorney and to dismiss the claims on behalf of “myself and the two portions that I represent for [the minor child] and the estate,” and that Complainant communicated that she understood and was going to withdraw and dismiss the case. The Subject Judge then addressed the motion to recuse and denied the motion.

Complainant stated that she had an obligation to determine why her client had a sudden change of heart with respect to continuing the case, and that she attempted to determine if the client had a “mental health break,” emotional stress, or something similar. The Subject Judge asked the individual plaintiff if she moved to discharge Complainant as her attorney, the plaintiff responded that she did, and the Subject Judge granted the motion to discharge. Complainant then argued, among other things, that she had taken recent action in the case only as the representative of the estate and minor child. She stated she would like to play phone conversations she had with the plaintiff into the record, and the transcript reflects that the court recessed briefly before resuming the hearing:

THE COURT: ... Okay. Let me ask everybody just to hold tight for two minutes. I am going to take a quick break. And I will come back and I am going to let you put whatever you think you need to put in the record.

So let me take a quick break. I ask that nobody leaves the courtroom.

(Recess.)

THE COURT: All right, ma'am. I have just pulled up the complaint from this case. ...

Later in the hearing, the Subject Judge asked Complainant what her relationship was to the deceased, and she responded that he was her brother. The transcript then reflects that the court recessed briefly again before resuming the hearing:

THE COURT: All right.

All right. We are going to take one more quick break. I ask everybody to stay in the courtroom. And I will be right back.

(Recess.)

THE COURT: All right, ma'am. I have one last question for you. And that would be am I correct that you -- you want this case or these cases to continue; is that correct? ...

At the conclusion of the hearing, the Subject Judge found that Complainant had violated two state rules of professional conduct and disqualified her from representing any party in the case.

Afterward, the Subject Judge entered orders denying the motion to recuse and directing Complainant to show cause as to why she should not be sanctioned for unprofessional and bad-faith

conduct. Complainant filed an untimely response to the show-cause order.

The Subject Judge then issued an opinion and order finding Complainant's conduct violated the state rules of professional conduct, violated Federal Rule of Civil Procedure 11, and amounted to bad faith, and the order disqualified her from acting as an attorney in the case as a sanction for her actions. The Subject Judge stated that the individual plaintiff's handwritten document had not been filed in the second case "due to a clerical oversight" and that the court rectified that oversight by entering the document in the record. The Subject Judge also found that Complainant's statements in her untimely response—that she put the court on notice of the representation issues in the first case and that she sought an opportunity for guidance from the court—were misleading. The Subject Judge directed Complainant to serve a copy of the opinion and order on the clerk of this Court because it was relevant to the appeal of first case.

The Subject Judge then entered an order dismissing the individual plaintiff from the case, stating that motions to dismiss the estate and minor child remained pending, and appointing a guardian *ad litem* for the minor child. After a status hearing, the Subject Judge ordered a representative of the estate to show cause as to why the court should not dismiss its claims. No response was filed, and the Subject Judge entered an order dismissing the case with prejudice.

Complaint

Complainant alleges the Subject Judge has an unspecified disability and engaged in improper *ex parte* communications, abusive or harassing behavior, intentional discrimination, and retaliation. She states her allegations “are based on the subterfuge, bias, deception, and unethical conduct that underlay [the Subject Judge’s] campaign to remove competent counsel from a matter so that he could torpedo two nonfrivolous lawsuits in favor of preferred defendants.” She alleges the Subject Judge “abused his position as a federal court judge to intimidate and punish me for declining to capitulate to this misconduct.”

Complainant states that the individual plaintiff expressed her commitment to the prosecution of the first case for over 16 months, but then “made a panicked demand that I dismiss both lawsuits on the basis of a personal conflict that she claimed to have developed suddenly.” She states that state law and the Federal Rules of Civil Procedure “set out clear rules for resolving the exact type of capacity and fiduciary issues that arose in the” first case, and that in her motion to continue filed in the first case, she “explicitly alerted [the Subject Judge] to capacity issues by motion and sought an opportunity to develop the record and advise on which parties and claims would move forward, if any.” She states that, less than a day later, the individual plaintiff “put on the record a handwritten statement that made abundantly clear the extent of her incapacity to discharge her statutory obligations as a fiduciary.” Complainant states, “Any competent federal district court judge should be expected to recognize circumstances showing that a fiduciary has

personal interests that prevent the discharge of a fiduciary duty and that such a conflict must be considered rather than ignored, regardless of how the facts present themselves on the record and particularly when a statute demands such consideration.”

Complainant contends that the Subject Judge ignored her motion to continue, ignored the plaintiff’s “on-record statement of her conflict,” and ignored applicable state law and the Federal Rules of Civil Procedure. She states the Subject Judge instead chose to dismiss the complaint as a shotgun pleading “even though—or perhaps *because*—he knew that many of the alleged shotgun pleading deficiencies would cure themselves following at least one party’s voluntarily dismissal of her individual claims and that the Estate had no competent personal representative at the time of the dismissal.” (Emphasis in original). She states, “The totality of the circumstances suggest that [the Subject Judge] may have believed that he could get across the line a dismissal with prejudice of the entire lawsuit at a point when no one could challenge it.”

Complainant states the Subject Judge “manufactured ethical dilemmas” in the first case in an effort to interfere with her prosecution of both cases. She states that in the first case, the Subject Judge disregarded the plaintiff’s handwritten document, but gave the document “great consideration” in the second case. She states that in the second case, the Subject Judge “personally placed [the plaintiff’s] handwritten statement into the record and used the substance of that statement as the basis for claiming that I violated ethical obligations by making any filings at all in the [second] lawsuit

besides a motion to dismiss or motion to withdraw as [the plaintiff's] counsel." Complainant alleges that during a hearing in the second case, the Subject Judge *sua sponte* entered the handwritten statement into the record on the client's behalf, "apparently acting both as [the plaintiff's] lawyer and as the judge within the same matter." She contends there is "no legitimate, impartial reason" why the Subject Judge would disregard the substance of the handwritten statement in first case but give it primary importance in the second case "***on the same day.***" (Emphasis in original).

Next, Complainant alleges that at the hearing in the second case, after the Subject Judge denied the motion to recuse, he "held two *ex parte* conferences in-chambers that were attended by him, counsel for [the defendants in the first case], and approximately seven other persons who I can only assume were lawyers for one or more of the parties in the" first and second cases. She states, "As many as ten observers in the courtroom witnessed [the Subject Judge] leave the courtroom with this entourage, and some later expressed their concern that the judge held side conversations without me behind closed doors during a hearing." She states that, "[a]fter the second such conference, [the Subject Judge] returned to the courtroom and announced from the bench that he was disqualifying me as counsel for all plaintiffs." She asserts that the Subject Judge also removed her from the electronic service list, and she did not receive notice of any further filings in the second case except for the final order of dismissal. She states that the Subject Judge required her to notify this Court of the disqualification order, and

she asserts he “clearly intended to interfere” in the appeal of the first case.

Complainant alleges that, after learning that she “exposed his mishandling” of the second case to this Court, the Subject Judge retaliated against her by referring her to the State Bar on alleged violations of rules of professional conduct, “supported solely by his self-serving disqualification order.” She states that the Subject Judge’s “referral of me to the Bar for declining to yield my professional obligations to his efforts to sabotage a lawsuit in favor of preferred parties demonstrates that he lacks the proper judicial temperament and is motivated by something other than fidelity to his oath of office or to the rule of law.”

Complainant then alleges the Subject Judge undertook a series of “[s]lapstick” *ex parte* actions to make the dismissal of the second case appear legitimate, contending he dismissed the case “on specious grounds, while the Estate was unrepresented by counsel and had no competent personal representative, and despite the fact that the case should have remained stayed while the [first case] was actively on appeal.” She asserts that, after removing her from the case, the Subject Judge kept the plaintiff in place as personal representative of the estate despite finding her to be an inappropriate representative and moved the case forward knowing the estate’s interests were not adequately protected. She alleges that in the second case, the Subject Judge held an in-person, *ex parte* status conference of which she received no notice, and that the Subject Judge’s order granting the defendants’ motion to dismiss was “just

more smoke and mirrors” because there was no motion to dismiss pending. She states, “In truth, it appears that he said whatever he thought would raise the least amount of eyebrows when dismissing a lawsuit with prejudice after maneuvering the removal of both the personal representative and counsel of record from a case that should have remained stayed until the appeal of the [first case] was resolved.”

In conclusion, Complainant states that the Subject Judge’s “mishandling of these two lawsuits was intentionally chaotic, unjustifiable, and designed to drive toward one conclusion—the immediate dismissal of the [second case] and the unquestioned absolution of [the defendants in the first case] from liability for serious alleged constitutional and state law violations.” She continues, “In the process, [the Subject Judge] set fire to my professional reputation, wreaked havoc on my mental and emotional health, showed complete disregard for an innocent minor’s future, and leaves the [district] subject to a law enforcement culture that he feels free to clothe with a form of absolute immunity via unethical strong-arming from the bench.” She provided a list of exhibits and notes that copies of the exhibits are available upon request.

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, findings, rulings, 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 had a disability, acted with an illicit or improper motive, was biased or otherwise not impartial, had improper *ex parte* communications, engaged in abusive or harassing behavior, retaliated against Complainant, abused his authority, engaged in intentional discrimination, treated her in a demonstrably egregious or hostile manner, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D).

With respect to Complainant’s claim that, during a hearing in the second case, the Subject Judge held two *ex parte* conferences in his chambers with counsel for the defendants in the first case and

approximately seven other persons, the record does not support the allegations. The transcript offers no evidence that other individuals went to the Subject Judge's chambers during the hearing. To the contrary, the transcript shows that the Subject Judge asked all attendees to remain in the courtroom before each recess. Before the first recess the Subject Judge stated, "I ask that nobody leaves the courtroom," and before the second recess, he stated, "I ask everybody to stay in the courtroom." In addition, the transcript shows that Complainant made no objections or statements at the hearing concerning alleged *ex parte* communications between the Subject Judge and an "entourage" of other people. Complainant makes no allegation that the transcript does not accurately reflect what happened at the hearing. Therefore, this specific claim is also based on allegations lacking sufficient evidence to raise an inference that the Subject Judge engaged in improper *ex parte* communications at the hearing.

For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge