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David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-25-90221

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**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 7 bankruptcy and moved for a waiver of the filing fee. The Subject Judge granted her motion to waive the fee. Complainant later moved for leave to appeal an order granting relief from an automatic stay because she “was suffering from mental incapacity” at a hearing on the request for relief from the automatic stay. Complainant also filed a motion for a stay pending appeal, which was not docketed, and moved to file the motion under seal because the motion and attachments were “protected under [a

certain statute's] privacy laws because they disclose an individual's health condition, diagnosis, medication and physician assessment and notes."

The Subject Judge entered an order concluding, based on his review of the motions and the audio recording of the hearing, that there was no basis for sealing the undocketed motion for stay and it was appropriate to return the undocketed motion for stay to Complainant. The Subject Judge also denied the motion to seal the motion for stay because Complainant's reliance on a statute was "overbroad and incorrect." The Subject Judge found that the audio recording of the hearing established that Complainant raised no issue of physical or mental impairment and showed no sign of impairment to the court. Afterward, Complainant filed a motion to recuse the Subject Judge, which the Subject Judge denied. The case remains pending.

### **Complaint**

Complainant states that during a hearing the Subject Judge "asserted that he was not in agreement with my argument and stated that I could appeal, but that he would deny any request I file to waive the appeal fee." She states, "I never brought up the subject of appeal, nor did I give any intent to appeal his ruling. I also never brought up the subject of an appeal fee." Complainant states that the Subject Judge previously allowed her to waive the filing fee in the case and asserts that "the decision on whether to waive the fee is based entirely on the applicants' ability to pay the fee." Complainant contends the Subject Judge's statement "was an attempt

to discourage, hinder and intimidate me from appealing his ruling” and that he “used his judicial power to intimidate me and to hinder me because he did not like that I disagreed with him.” She states, “To have a judge in any court, but especially in a bankruptcy court, use this court and prior knowledge of a Debtors’ financial circumstance to their advantage is despicable, unprofessional, and unbecoming of a Federal Judge.” She alleges the Subject Judge made his decision “based on his own personal bias” and not on the facts or documents.

Complainant states that the “second instance of improper conduct” concerned the Subject Judge’s order denying her motion to seal in which he made a “medical determination on my mental and physical health.” She states the Subject Judge does not have a medical degree, “[y]et, somehow he found it appropriate to state, in reference to an undocketed motion, that my behavior during the hearing did not display any impairment based on an audio recording.” She states, “That is a medical determination, which is not only inaccurate but also harmful because it suggest[s] impairment can only be detected verbally.” She also contends, “The fact that he made any conclusion at all about the state of my physical and mental health without any medical qualifications, and based on an audio recording no less, was inappropriate and beyond the scope of his authority and the motion itself.” She states that the Subject Judge’s order was “not only ridiculous, it’s insulting to actual medical professionals and it diminishes my mental and physical pain and struggle.” Finally, she alleges the Subject Judge “went out of

his way to make a statement that was unnecessary for a personal jab” and that his statements were “improper and disrespectful.”

### **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 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, was

biased or otherwise not impartial, abused his power, treated her in a demonstrably egregious and hostile manner, 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