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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-26-90123

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, through counsel, filed a voluntary petition for bankruptcy under Chapter 13. The Subject Judge ordered Complainant to show cause why the case should not be converted to a case under Chapter 11 and why her property should not be subject to the lien of a company. The order stated that Complainant had a long history of failing to comply with court orders and taking other actions that appeared to constitute bad faith and fraud on the court. Complainant filed a notice of dismissal of the case.

The Subject Judge entered an order converting the case to proceed under Chapter 11, striking the notice of dismissal, prohibiting Complainant from filing any paper unless signed by an attorney, and directing her and her husband to appear and show cause why sanctions should not be imposed for their failure to attend a hearing. Complainant filed a *pro se* notice of appeal, which the Subject Judge struck because it was not signed by an attorney.

After a hearing that Complainant's husband did not attend, the Subject Judge sanctioned Complainant and her husband \$50,000 due to their repeated and willful violation of court orders. The order required Complainant and her husband to appear at another hearing and prohibited them from filing any papers unless signed by an attorney. Complainant's attorney then moved to withdraw as counsel, which the Subject Judge granted. Complainant filed another *pro se* notice of appeal, which the Subject Judge struck because it was not signed by an attorney.

The Chapter 11 Trustee moved to compel Complainant to cooperate, stating that she had refused to provide keys to certain property to the broker for the estate, which prevented inspection of the property for possible sale. After a hearing, the Subject Judge granted the motion to compel, barred Complainant from entering two properties, and ordered her to deliver the keys to the trustee or broker. Activity continues in the case.

Complaint

Complainant alleges the Subject Judge ordered that she could not enter her home and business because of his "extreme and

obvious dislike (hatred) of me as displayed by his demeanor and orders.” She states the Subject Judge “is deliberately harming a 75 year old disabled woman who does not have the financial ability to afford an attorney.” She contends that property owned by her husband is not part of the bankruptcy case and that the Subject Judge “wrongfully dragg[ed]” her husband into the case and sanctioned him. She alleges the Subject Judge is forcing her to pay a creditor that lacks a valid lien and ordered to her turn over her keys to the property before the creditor has filed a proof of claim, which showed bias, prejudice, and an intent to harm her “as much as possible.” Complainant contends the Subject Judge “is still angry over the motions to disqualify and verbal and written motions to recuse,” advocated for the creditor, attempted to “paralyze” her, refused to recognize her notice of withdrawal of the case, and violated the Code of Conduct for United States Judges. She requests emergency relief and 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, findings, rulings, 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, was biased or otherwise not impartial, treated her in a demonstrably egregious and hostile manner, violated the Code of Conduct for United States Judges, 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