

FILED

August 12, 2021

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-21-90137 through 05-21-90139

MEMORANDUM

Complainant, a bankruptcy creditor, has filed a complaint alleging “judicial corruption” and “egregious abuse of power” by United States Bankruptcy Judge A in the underlying bankruptcy case, by United States Bankruptcy Judge B in complainant’s adversary proceeding, and by the subject United States District Judge in complainant’s appeal from the bankruptcy court’s judgment.

Noting that in the adversary proceeding, Bankruptcy Judge B granted his motion to strike the debtor’s answer, motion for sanctions, and motion for default judgment due to debtor’s failure to respond to motions, appear at hearings, and comply with court orders, complainant complains that the judge “would not even grant me my full attorney consultation fees and only gave me a small portion of my attorney fees I had paid to help with discovery . . . to address [the debtor’s] multiple lies.”

Complainant further complains that despite “knowing” that the debtor “rip[ped] off 120 creditors,” and despite the default judgment entered against the debtor in the adversary proceeding, Bankruptcy Judge A granted a discharge of the debtor’s debts under 11 U.S.C. § 727.

Complainant also protests that despite the debtor’s failure to file an appellate reply brief in the appeal, and despite complainant’s presenting

evidence that the debtor “committed fraud and lied under oath several times,” the district judge denied his motion for default judgment.

These allegations relate directly to the merits of rulings or procedural decisions and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant further objects that in an order affirming the bankruptcy court’s judgment, the district judge stated “he could not see fraud committed by [the debtor], but the prior 3 judges did, and he said he did not get the transcripts, but the court docket said he did receive the transcripts.” Complainant contends that the district judge’s statements constitute evidence of “either flagrant judicial misconduct or a severely mentally ill judge with a severe mental disability.”

A review of the order shows that the district judge stated that because complainant had failed to provide a transcript of a hearing during which Bankruptcy Judge B read the contested findings of fact and conclusions of law into the record, the district court was unable to evaluate whether the findings and conclusions, if any, regarding the debtor’s alleged fraudulent statements warranted the Bankruptcy Court to discharge the debtor’s debts. A review of the appellant’s record filed by complainant shows that it did not include the transcript of that hearing.

Regardless, to the extent that these allegations relate directly to the merits of the judge’s decision, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegation of “severe mental disability” is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference” that the district judge is suffering from a mental disability.

Noting that the debtor proceeded pro se in the adversary and appellate matters, complainant asserts that the three subject judges engaged in ex parte communication with the debtor’s bankruptcy attorney, entered “biased one-

sided judgments,” and discriminated against “me because I am a pro se non-attorney.” He submits that the judges colluded with the debtor’s bankruptcy attorney “to pervert justice and get [the debtor’s] bankruptcy approved.”

In support of these claims, complainant offers the following examples of misconduct:

- “[Bankruptcy Judge A] sends her order to [the debtor’s bankruptcy attorney] granting his client’s bankruptcy to defraud 120 creditors, even though [the debtors] was supposedly pro se. . . . Major Red Flag!” However, the debtor was represented by counsel in the bankruptcy case, and it was therefore entirely proper for the clerk to transmit a copy of the court’s order discharging the debtor’s debts under 11 U.S.C. § 727 to her attorney.
- Complainant reports that when he attempted to access the adversary proceeding docket on October 14, 2020, PACER generated the following message: “There are proceedings for [the adversary case] but none satisfy the selection criteria.” Based on this message, complainant concludes that Bankruptcy Judge A (or Bankruptcy Judge B) “deleted the docket report for this case to hide [from] anyone investigating to see all the documents that were filed or recorded on PACER.” However, the PACER Transaction Receipt complainant provided in support of this claim records that he searched for docket entries “From: 9/30/2020 To: 10/14/2020.” The last docket entry in the adversary matter was on January 17, 2019 and, as such, there were no entries that satisfied his search criteria.
- Complainant submits that despite the debtor’s proceeding pro se in the adversary and appeal matters, “the adversary and district appeal still sent correspondence to [her bankruptcy attorney].” Given that the adversary case and appeal were directly related to the underlying bankruptcy matter, there appears to be nothing improper in the

debtor's attorney receiving court correspondence regarding those matters.

— Complainant claims that it was “highly strange and bizarre” that district court Notices of Electronic Filing indicated that CM-ECF was not delivering electronic notices to the debtor or her bankruptcy attorney, even though the debtor was listed as a party in the appeal. Any purported anomaly in transmitting notices to parties is the responsibility of the district court clerk's office, not the district judge.

To the extent, if any, that these allegations relate directly to the merits of rulings or procedural decisions, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, such conclusory allegations of ex parte communication, docket tampering, bias, discrimination, and collusion are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference that misconduct has occurred.”

Judicial misconduct proceedings are not a substitute for the normal appellate review process, nor may they be used to obtain reversal of a decision or a new trial.

An order dismissing the complaint is entered simultaneously herewith.



Priscilla R. Owen
Chief United States Circuit Judge

August 11, _____, 2021