

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-24-90011

BEFORE
Barron, Chief Circuit Judge

ORDER

ENTERED: JUNE 9, 2025

Complainant, a former debtor, has filed a complaint under 28 U.S.C. § 351(a) against a bankruptcy judge in the First Circuit. Complainant alleges that the judge engaged in judicial misconduct in presiding over her bankruptcy proceeding, as well as over other unspecified bankruptcy cases. The misconduct complaint is not cognizable.

Complainant alleges that the judge delayed in ruling on the trustee's motion to convert complainant's proceeding to a different bankruptcy chapter. Complainant adds that she learned at a hearing on the motion to convert, that "there [are] many other cases like [hers]," and that the debtors in these cases are waiting for rulings.

The reviewed record, including the misconduct complaint, the docket of complainant's proceeding, and the audio recording of the relevant hearing, provides no evidence to support complainant's allegation that the judge engaged in judicial misconduct. According to the record, complainant filed a bankruptcy petition more than a

decade ago.¹ Years later, the presiding judge, who is not the subject judge, granted complainant's discharge and closed the case.

Several years after the matter was closed, the trustee filed a motion to reopen complainant's case asserting that complainant had failed to disclose a prepetition claim, which was property of the bankruptcy estate. Complainant filed an opposition to the motion explaining that she did not have knowledge of the claim until after her bankruptcy proceeding was closed and, as such, the claim was not property of the bankruptcy estate. The case was reassigned to the subject judge, who, after holding a hearing on the motion to reopen the case, granted the motion.

After the case was reopened, the trustee filed a motion to convert complainant's case to a different bankruptcy chapter, in light of the discovery of the prepetition claim, and complainant filed an opposition in which she reiterated that she had no knowledge of the claim prior to the closing of her bankruptcy case. The judge held a hearing on the motion, at which the parties argued their positions and the judge stated that the issue of whether the undisclosed claim was property of the estate was relevant to other cases involving the trustee. The judge provided the parties time to submit additional briefing on the issue, and, after the parties completed briefing, took the matter under advisement.

Subsequent to the filing of the present misconduct complaint, the judge entered a multiple-page memorandum of decision in complainant's case, as well as in other cases, addressing motions to convert filed in each of the cases. The judge explained in the

¹ Complainant was represented by counsel throughout the entirety of the proceeding.

memorandum of decision that, in all of the cases, the trustee, years after the cases were closed, had filed motions to reopen and convert each of the cases, based on the discovery of undisclosed prepetition claims. The judge analyzed the applicable law, determined that the prepetition claims were not property of the respective bankruptcy estates, denied the motions to convert each of the cases, and closed each of the cases.

The complaint is meritless. Complainant does not allege, let alone provide any evidence, that the judge was improperly motivated in handling the motion to convert filed in her case or similar motions filed in any other cases. See Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rule 4(b)(2) ("Cognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive"). Where, as here, there is no evidence of improper judicial motive and the several cases at issue are neither significant in number nor unrelated (as they involved the same legal issue and trustee), any delay would not be cognizable. See supra pp. 2-3; and Rules of Judicial-Conduct, Rule 4(b)(2) ("Cognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases."). See also Rules of Judicial-Conduct, Commentary on Rule 4 ("[A] complaint of delay in a single case is excluded as merits-related. Such an allegation may be said to challenge the correctness of an official action of the judge. . . . But, an allegation of a habitual pattern of delay in a significant number of unrelated cases, or an allegation of deliberate delay in a single case arising out of an improper motive, is not merits-related."). Therefore, the

complaint is dismissed as not cognizable, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(B).

For the reasons stated, Complaint No. 01-24-90011 is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(B).

June 9, 2025
Date



Chief Judge Barron