

**FILED**

May 20, 2024

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-24-90066

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## MEMORANDUM

Complainant, the son of an elderly bankruptcy debtor [“the Debtor”], has filed a complaint alleging misconduct by the subject United States Bankruptcy Judge.

Of relevance to the instant complaint, the Debtor was initially represented by general counsel for “a non-profit” “legal organization” founded by Pastor X to “help” the organization’s members, each of whom paid a \$600 membership fee. Without prior notice to the court, Debtor’s counsel failed to appear for a hearing on the Chapter 13 Trustee’s Amended Motion to Dismiss Chapter 13 Case, and Pastor X, a non-attorney, announced that he was representing Debtor. The judge ordered Debtor’s counsel to appear at a hearing to show cause why he had failed to appear.

Complainant complains that during the show cause hearing, the judge told Pastor X “to be quiet as if he were a child.” A review of the transcript shows that the judge did not tell Pastor X to “be quiet” but, during her examination of the attorney, the judge denied the pastor’s requests to address the court and to cross-examine the attorney.

Regardless, the allegation relates directly to the merits of the judge’s decisions in controlling the courtroom proceedings and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant further alleges that the judge “showed extreme prejudice against . . . [Debtor’s counsel] whom she barred from practicing law in the [district] because he was accused by [the Chapter 13 Trustee] of being anxious and depressed.” A review of the record indicates that counsel’s (purported) mental health issues were not raised during the show cause hearing and there appeared to be ample evidence to support the judge’s decision to suspend his permission to practice before the bankruptcy court indefinitely.

Complainant also complains that despite his telling the court that the attorney who subsequently represented the Debtor “sabotaged [her] case with the help of and pressure from the [Chapter 13] Trustee,” the judge “let [the attorney] off the case.”

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

Complainant further asserts that the judge entered an order that “gave [the Debtor] 60 days to find another lawyer and I later found out that there was a special hearing set after 30 days and she dismissed that ruling which displayed an obvious abuse of power. This put my mother at an extreme disadvantage at this point and shows how poorly her case has been handled.”

Contrary to complainant’s claims, the order gave the Debtor 30 days to obtain new counsel and warned that, absent the filing of a notice of appearance by that deadline, the underlying bankruptcy case and adversary proceeding would be subject to immediate dismissal. In complaining that the judge held “a special hearing,” complainant appears to be referring to a status conference, the minute entry for which records that complainant was “unable to appear due to medical appointment,” thereby indicating that complainant was notified of the hearing.

Regardless, to the extent that these allegations relate directly to the merits of decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertions of either a clandestine hearing or a hearing taking place in complainant's absence, abuse of power, or prejudice against the Debtor appear entirely derivative of the merits-related charges, but to the extent the allegations are separate, they are wholly unsupported, and are therefore 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."

In addition, complainant protests: "[Pastor X] was locked up for contempt and they also appointed . . . an attorney to handle [an elderly bankruptcy debtor's] case which is a conflict of interest. What makes him so special and not my mother? This further shows insider trade [sic] and misconduct on [the judge's] part and for sure displaying racial bias."

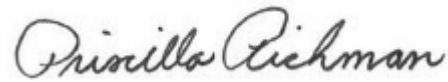
Complainant appears to be referring to a bankruptcy proceeding assigned to a different judge, in which an elderly debtor, proceeding pro se, filed a deficient Chapter 13 petition, and the case was dismissed. That judge reinstated the case after the Chapter 13 Trustee presented evidence suggesting: the debtor had filed the deficient petition based on legal advice from Pastor X; the debtor had displayed confusion and had trouble remembering facts during a Section 341 meeting; and Pastor X, to whom the debtor had granted power of attorney, might have taken possession of monies belonging to the bankruptcy estate. The judge also appointed a Guardian Ad Litem for the debtor. Two months later, the judge found Pastor X in contempt for not complying with court orders to turn over the monies or account for them. In the interim, an attorney began representing the debtor, but nothing in the record indicates that the attorney was court-appointed.

Regardless, to the extent that complainant is complaining that the subject judge did not appoint counsel to represent an elderly Black debtor, whereas the other judge appointed a Guardian Ad Litem for an elderly white

debtor, the allegation relates directly to the merits of a decision or procedural ruling and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertions of “conflict of interest,” “insider trading,” or “racial bias” appear entirely derivative of the merits-related charges, but to the extent the allegations are separate, they are wholly unsupported, and are therefore 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.



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Priscilla Richman  
Chief United States Circuit Judge

May 20, 2024