

FILED

May 17, 2024

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Before: RICHMAN, Chief Judge, ELROD, STEWART, COSTA, WILLETT, HO, DUNCAN, ENGELHARDT, OLDHAM, WILSON, ZAINEY, JACKSON, FOOTE, MILLS, REEVES, KINKEADE, ROSENTHAL, GILSTRAP, and MOSES.¹

COMPLAINT NO. 05-20-90061

IN RE: Complaint of Judicial Misconduct Regarding a United States District Judge Under the Judicial Improvements Act of 2002.

ORDER AND MEMORANDUM OF REASONS

A law enforcement agency filed a complaint against a United States district court judge. The complaint alleges that the subject judge revealed sensitive and confidential information regarding a law-enforcement public corruption investigation, which the judge learned in a sealed bench conference in a criminal case pending before him, to a family member. The complainant alleges that the information was eventually relayed to the target of the investigation, and that the disclosure allowed the target to attempt to obstruct the investigation and brought the investigation to an early end. The target of the investigation was convicted of obstruction of justice and other offenses.

¹ The judges named in the caption were members of the Judicial Council when this matter was considered and approved by the Council in November 2021, and they concurred in the decision. Judge Costa resigned from the Court effective August 31, 2022. The Judicial Council terms of Judges Willett, Ho, Duncan, Foote, and Rosenthal expired December 31, 2021.

After requesting and receiving a response from the subject judge, Chief Judge Richman appointed a Special Committee, which reviewed the complaint, the response, the exhibits to both, and the underlying court transcript.

The Special Committee concluded that the judge had, at a minimum, disclosed sensitive information regarding an ongoing criminal investigation, that the information found its way to the investigation's target, and that it might have prompted the target's evasive behavior. The Committee informed the judge that it found those disclosures to be unwise, and that they implicated Canons 1 and 2 of the Code of Judicial Conduct for United States Judges. In a letter to the Special Committee, the subject judge stated that he would never intentionally interfere with a law enforcement investigation and he understands the risks and consequences of disclosing confidential information about government investigations. He also committed to avoid such disclosures in the future. The Special Committee found the judge's representations to be sincere and that his commitment to avoid such disclosures in the future appropriately addresses their concerns raised by the complaint.

For the foregoing reasons, the Special Committee recommended that the Judicial Council conclude the proceeding because appropriate corrective action has been taken. *See* Rules for Judicial-Conduct and Judicial-Disability Proceedings, Rule 20(b)(1)(B). The Judicial Council accepts this recommendation and concludes the proceeding pursuant to Rule 20(b)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Pursuant to Rule 24(a)(2) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, it is ordered that the name of the subject judge not be disclosed. Circuit Judges Jennifer W. Elrod, Gregg J. Costa and James C. Ho and District Judge Carlton W. Reeves would publicly disclose the name of the Judge who is the subject of the complaint.

For the Council:



Chief Judge

Date: May 15, 2024