

FILED

March 12, 2021

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-21-90066

MEMORANDUM

Complainant, the aunt of a federal criminal defendant, has filed a complaint against the subject United States District Judge before whom the underlying criminal matter is pending.¹

Complainant complains that when the defendant asked the court to correct “illegal changes” to his criminal history set out in a Presentence Investigation Report, the judge “declined” to “get involved.” Complainant reports that she recently wrote directly to the judge about the issue, but he “has yet to address the prosecutors who obviously tampered with a government record . . . to vindictively alter [the defendant’s] criminal history with false information.”

¹ Complainant’s nephew [“the defendant”] has previously filed three judicial misconduct complaints regarding the same proceeding, and his right to file further complaints was suspended pursuant to Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Because the formatting of complainant’s statement of facts is markedly similar to a petition for review filed by the defendant in January 2020, and because the defendant’s and the complainant’s mailing addresses indicate they live next door to each other, it appears highly likely that complainant is aware of the defendant’s complaint history. While I make no finding as to whether the defendant orchestrated the filing of the instant complaint to circumvent the bar order, any further complaints filed by others regarding the defendant’s criminal proceeding will be scrutinized under Rule 10(b) as possible orchestrated complaints.

To the extent that these allegations relate directly to the merits of the judge's denial of the defendant's request, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). To the extent, if any, that complainant is complaining that the judge has taken no action in response to her correspondence, it is entirely proper for a judge not to respond to communications from a non-party regarding a pending matter and the allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

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

March 11, 2021

May 26, 2021

Lyle W. Cayce
Clerk

**Before the Judicial Council
of the Fifth Circuit**

No. 05-21-90066

Petition for Review by [REDACTED],
of the Final Order Filed March 12, 2021,
Dismissing Judicial Misconduct Complaint
Against [REDACTED],
[REDACTED]
Under the Judicial Improvements Act of 2002.

ORDER

An Appellate Review Panel of the Judicial Council for the Fifth Circuit has reviewed the above-captioned petition for review, and all the members of the Panel have voted to affirm the order of Chief Judge Priscilla R. Owen, filed March 12, 2021, dismissing the Complaint of [REDACTED] [REDACTED], under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

5/25/2021
Date

Jennifer W. Elrod
Jennifer W. Elrod
United States Circuit Judge
For the Judicial Council of the Fifth Circuit