

**FILED**

August 12, 2021

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-21-90129

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## MEMORANDUM

Complainant, a state prisoner, has filed a complaint alleging misconduct by the subject United States Magistrate Judge in complainant's 42 U.S.C. § 1983 proceeding.

Complainant complains that in a Memorandum Opinion the magistrate judge, who presided by consent, described complainant as being "generally unhappy" with detention facility conditions. Complainant submits that this "inappropriate," "discriminatory," and "partis[an]" statement demonstrated "unfair advantage or influence toward [the defendant-corporation which owns and operates the detention facility] by watering down the serious health and environmental hazards" raised in the lawsuit.

However, contrary to this claim, a review of the Memorandum Opinion shows that the statement at issue was preceded by a summary of complainant's health issues, acknowledgment that complainant was arguing that detention facility conditions were unconstitutionally harsh, a list of the nine specific conditions raised by complainant, and the magistrate judge's finding that only three of those conditions rose to the level of a constitutional violation. After the statement at issue, the magistrate judge explained why none of the six remaining claims rose to the level of a constitutional violation.

Complainant appears to further complain that the magistrate judge failed to investigate the defendants' alleged "elder abuse" crimes.

To the extent that the 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, the assertions of discrimination and 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).

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 R. Owen  
Chief United States Circuit Judge

August 11, \_\_\_\_\_, 2021

**FILED**

September 23, 2021

Lyle W. Cayce  
Clerk

# Before the Judicial Council of the Fifth Circuit

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Complaint Number: 05-21-90129

The Petition for Review by [REDACTED] Against  
[REDACTED]

Under the Judicial Improvements Act of 2002.

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## 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 August 12, 2021, dismissing the Complaint against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

*September 8, 2021*  
Date

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