

FILED

January 10, 2022

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-21-90153 and 05-21-90154

MEMORANDUM

Complainant has filed a complaint alleging misconduct by the subject United States District Judge and the subject United States Magistrate Judge.¹

In 2002, complainant, who was the trustee of a family trust, filed a voluntary petition in bankruptcy on behalf of the trust. The Chapter 7 Trustee filed an adversary proceeding alleging complainant had violated her fiduciary duty to the trust. Those proceedings were overseen by a now-retired United States Bankruptcy Judge who, in an order entered in August 2005 in the adversary case, found in favor of the Chapter 7 Trustee. Fourteen months later, the bankruptcy and adversary proceedings were reassigned to the subject district judge who, at that time, was a bankruptcy judge.

The bankruptcy case was closed on February 14, 2012. In February 2013, complainant filed a motion to reopen the case. The judge denied the motion.

Complainant recounts that, on appeal, she filed a “Motion to Investigate” the bankruptcy case and, “within days,” the judge “took the unrepresented [sic] action of SEALING the ten-year[-]old bankruptcy records

¹ Because the underlying proceedings are related, complainant’s separate complaints against each judicial officer are addressed as a consolidated complaint. As provided by 28 U.S.C. § 351(1)(d)(1) and Rules 1(b) and 8(c) and (d) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings, the Clerk has notified complainant that her allegations against two retired federal judicial officers, a state judge, and several attorneys are not cognizable under the Judicial Improvements Act of 2002.

previously open to the public on PACER” to “conceal the corrupted record” and “obstruct justice.”

In September 2010, the Judicial Conference of the United States “agreed to amend its privacy policy to restrict public access through PACER to documents in bankruptcy cases that were filed before December 1, 2003 and have been closed for more than one year.”² Those amendments were incorporated into the Guide to Judiciary Policy, Vol. 10, Ch. 3 at §§ 370(b)(1) through (4).³ The policy provisions programmed into CM/ECF automatically restrict access through PACER to documents in bankruptcy and adversary cases that meet the policy criteria.

The underlying bankruptcy and adversary cases were filed before December 1, 2003. The adversary case was closed in January 2012 and the bankruptcy case was closed on February 2012, and therefore public access through PACER to documents in those matters became restricted after one year, i.e. in January and February 2013, respectively.

Given that complainant filed the “Motion to Investigate” in April 2013, i.e., after public access through PACER was restricted, her conclusory allegation that the judge “sealed” the bankruptcy and adversary dockets to “conceal the corrupted record” is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant’s appeal from the August 2005 judgment was closed in November 2007. In April 2021, counsel for the trustee of the family trust filed Writs of Garnishment and Writs of Fieri Facias regarding monies awarded in the 2005 judgment.

Complainant states that the magistrate judge misconstrued her request for a hearing on “all the circumstances surrounding the Writ of Fieri Facias

² Report of the Proceedings of the Judicial Conference of the United States, September 14, 2010, at 12-13. <https://www.uscourts.gov/sites/default/files/2010-09.pdf>.

³ <https://jnet.ao.dcn/policy-guidance/guide-judiciary-policy/volume-10-public-access-and-records/ch-3-privacy#370>.

and/or Execution” as her seeking the court’s intervention in a state court proceeding. She asserts that the decision was not simply erroneous, rather it demonstrated that the magistrate judge “[had] made himself part [of]” the “history of atrocities” and “conspiracies committing and covering up massive criminal acts” of the trustee, and counsel for the trustee, of the family trust and counsel for the Chapter 7 Trustee.

To the extent that the allegations relate directly to the merits of a decision or procedural ruling, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertion of conspiracy appears entirely derivative of the merits-related charges, but to the extent the allegation is separate, it is wholly unsupported, and is 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.

This is complainant’s second judicial misconduct complaint against the subject judicial officers regarding the same or related proceedings. Complainant is WARNED that should she file a further merits-related, conclusory, frivolous, or repetitive complaint, her right to file complaints may be suspended and, unless she is able to show cause why she should not be barred from filing future complaints, the suspension will continue indefinitely. See Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.



Priscilla R. Owen
Chief United States Circuit Judge

December 28, 2021

FILED

March 4, 2022

Lyle W. Cayce
Clerk

Before the Judicial Council of the Fifth Circuit

Complaint Numbers: 05-21-90153 and 05-21-90154

Petition for Review by [REDACTED]
of the Final Order Filed January 10, 2022,
dismissing the Judicial Misconduct Complaint against

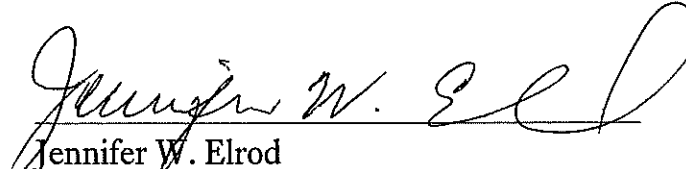
[REDACTED]
[REDACTED]
[REDACTED]
Under the Judicial Improvements Act of 2002.

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 January 10, 2022, dismissing the Complaint of [REDACTED] against [REDACTED] [REDACTED] [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

March 2, 2022
Date


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