

FILED

November 14, 2022

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-22-90074

MEMORANDUM

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

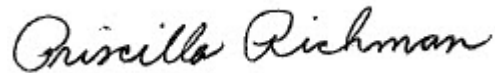
Complainant states that he “very strongly believe[s]” that the magistrate judge is related to a state district attorney “who is directly connected to my case and several of my legal claims in my lawsuit point right at [the district attorney] who could very well end up being a Defendant in my lawsuit herself on several accounts of unlawful and unconstitutional behavior which will surely be revealed in Disclosure and Discovery!” In support of his claim that the magistrate judge and the district attorney are related, complainant submits that “[t]hey both have the same last name,” “[t]hey are both in [the same county],” and “[t]hey are both involved in my case with my legal claims.” He concludes that the magistrate judge is engaged “in a conspiracy against my rights to obstruct justice in favor of the defendants unlawfully.”

In the instant complaint complainant admits, and review of the docket confirms, that the district attorney is not representing a party, is not herself a party, and has not been named as a witness. Regardless, to the extent that complainant is complaining that the magistrate judge failed to recuse herself *sua sponte*, 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 conspiracy 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) 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.



Priscilla Richman
Chief United States Circuit Judge

November 10, 2022

FILED

February 8, 2023

Lyle W. Cayce
Clerk

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

Complaint Number: 05-22-90074

Petition for Review by [REDACTED] regarding
Complaint of Misconduct and/or Disability Against

[REDACTED]

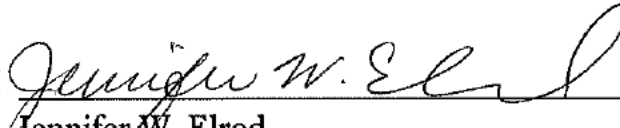
Under the Judicial Improvements Act of 2002, 28 U.S.C. §§ 351-364.

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 United States Circuit Judge Priscilla Richman, filed November 14, 2022, dismissing the Complaint of [REDACTED] against [REDACTED] [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

Date

February 3, 2023 
Jennifer W. Elrod

United States Circuit Judge

For the Judicial Council of the Fifth Circuit