

FILED

August 23, 2023

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-23-90042

MEMORANDUM

Complainant, a federal prisoner, alleges misconduct by the subject United States Magistrate Judge in two proceedings.

Allegations: 2015 Case

Complainant complains that the judge “unlawfully issued” a “Bogus, Barebones warrant . . . to clean out my house and bank accounts without specifying Fruits of a crime as required by the Fourth Amendment.” This claim appears to be contradicted by the record which indicates the warrant was issued by the Clerk of the United States District Court in another Circuit, not by the subject judge.

Complainant further complains that “instead of telling the Marshals/Bailiff to remove me from his courtroom and reappear with my attorney and representation” during an Initial Appearance proceeding, the judge “proceeded to conduct a 5.1 hearing in which a regular citizen such as myself has no idea what it was, but [I] found out later that it was a crucial hearing that I should have been allowed representation by a professional attorney.” This claim appears to be contradicted by the record which indicates that complainant signed a Waiver of Rule 5 and 5.1 Hearings.

Complainant also alleges that in an attempt “to cover up his mishaps and malfeasance” in the August 2015 proceeding, the judge has “spent over 7 years rejecting [my] filings and pleadings.” For example, the judge:

- “direct[ed] the Clerk to file the pleadings in . . . a case that had been long closed over 20 years,” i.e., complainant’s 2000 criminal case;
- “took every step above and beyond to try to cover his tracks and thought that I would go away even to the extent of opening a new criminal case . . . trying to deter me to go away [sic]”; and,
- returned “the injunction that I filed . . . without being filed, otherwise my properties would have not been disposed of.”

Complainant asserts that the judge’s misconduct “is a lynching in the 21st Century by a man [who] . . .[sat] on a bench with a Rope that he [put] around the Neck of Black women and [put] his entire malfeasant foot on the scales of Justice the day that [I] entered into his courtroom bewildered as to what was going on.” She protests that the judge “would have never issued such a warrant for a white businessman or woman or veteran.”

To the extent that these 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). To the extent that complainant claims that the judge directed clerk’s office personnel to file her motions incorrectly or to return them, unfiled, the conclusory allegation is 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.” In other respects, any assertion of racial bias appears entirely derivative of the merits-related charges, but to the extent the allegation is separate, it is wholly unsupported, and is therefore also 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.”

Allegations: 2020 Case

Complainant alleges that the judge “[tried] to play cover up for his malfeasance evidence [sic] by the recommendation issued to dismiss [a defendant-bank], he was paid under the table for his corruption.”

In support of this allegation, complainant has submitted copies of Delinquent Notices issued regarding overdue property taxes on two properties that were the subject of forfeiture in complainant's 2015 criminal proceeding in another district court in which complainant was found guilty of mail fraud, wire fraud, and international money laundering. The notices identify the "Owner" of the properties as the "United States of America". Complainant contends that because one of the notices was mailed to the address of the federal courthouse where the judge "works and presides over cases," the notices constitute proof that "they agree[d] to divide my properties among the courts that colluded together to steal [my] assets that has nothing to do with any crime," and that the judge "received a piece of theft from the Government."

To the extent that this aspect of the complaint relates directly to the merits of a decision or procedural ruling, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegation that the judge was "paid under the table" is so lacking in indicia of reliability that no further inquiry is warranted and 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 Richman

Chief United States Circuit Judge

August 19, 2023

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

United States Court of Appeals

Fifth Circuit

FILED

October 25, 2023

Lyle W. Cayce
Clerk

Complaint Number: 05-23-90042

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 August 23, 2023, dismissing the Complaint of [REDACTED] against [REDACTED]

[REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

Oct. 19, 2023
Date

Jennifer W. Elrod
Jennifer W. Elrod

United States Circuit Judge

For the Judicial Council of the Fifth Circuit