

FILED

January 3, 2024

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-23-90077

MEMORANDUM

Complainant, a pro se litigant, has filed a convoluted and barely intelligible complaint alleging misconduct by the subject United States Magistrate Judge.

Complainant—who is subject to a pre-filing injunction in the relevant district court—alleges that by recommending that his motion for leave to file suit be denied, the judge ensured that his claims against the defendants would not be adjudicated, thereby demonstrating “reckless intentional neglect, duty and refusal to admission, declare, discourse the mandate public record, interest of the judicial disclosure.” He further alleges that because the Report and Recommendation was not entered until 87 days after his motion for leave was docketed, the judge engaged in “inexcusable” and “purposefully recklessly [sic] delay to cause adverse impact and damage.”

Without presenting any evidence in support of the claims, complainant further alleges that the delayed and adverse ruling constitutes evidence that the judge:

- Used her judicial office to obtain special treatment for “herself, friends, and or [sic] possible relatives from alleged defendant defendants [sic] specifically real estate interest taxation tax ratio [sic] in the specific amount by meaning [sic] exchange personal favors.”

- “[A]ccept[ed] bribes and or gifts.”
- “To alert, hint, covers defendant defendants [sic], engag[ed] in improper ex parte communications with parties or counsel for defense by hanging cause on the court open docket but refus[ed] to issue summons[es].”

Complainant reports that eight days after the judge entered the Report and Recommendation, he sent a letter to the Judicial Conference Committee on Judicial Conduct and Disability [“JC&D Committee”] complaining (in part) about the judge’s conduct in the underlying district court matter.¹ Six weeks later, complainant mailed copies of the letter to members of the United States Senate Committee on the Judiciary. He asserts that the judge knew that his letter of complaint “was pending” and she:

“then corruptly endeavored to influence, obstruct, or impede the due administration of justice . . . by allowing defendant defendants [sic] to intimidation [sic], threats, persuasion, or deception . . . with intent to prevent . . . testimony or physical evidence from being truthfully presented to congressional or other official federal proceedings . . . and by meaning [sic] inflicting or threatening to inflict bodily injury, damaging or threatening, and did [sic] causing damage [to complainant’s] property, with conspiracies to do so.”

To the extent that the complaint relates directly to the merits of decisions or procedural rulings, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). An 87-day delay in issuing a Report and Recommendation does not, of itself, constitute judicial misconduct, and complainant provides no evidence to support his claim that the delay was intentional, and this

¹ To the extent, if any, that complainant is seeking review of the allegations contained in that letter as part of the instant complaint, allegations made in exhibits or attachments cannot be considered. *See* Fifth Cir. Procs. 6(a) and (f), Fifth Circuit Rules for Judicial-Conduct and Judicial-Disability Proceedings.

aspect of the complaint is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

In other respects, any assertions of ex parte communication, bias, improper use of judicial office, bribery, conspiracy and corruption, 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
Priscilla Richman
Chief United States Circuit Judge

December 26, 2023

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

United States Court of Appeals
Fifth Circuit
FILED
February 28, 2024
Lyle W. Cayce
Clerk

Complaint Number: 05-23-90077

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 Judge Priscilla Richman, filed January 3, 2024, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

02-23-2024
Date

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