

**FILED**

January 3, 2024

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

---

Complaint Number: 05-23-90082

---

## MEMORANDUM

Complainant, a pro se litigant, states that her 2022 civil case was initially assigned to an “original neutral judge” but was then assigned to the subject United States District Judge.<sup>1</sup> She alleges that because the judge had presided over a 2010 civil case involving the same defendant, her failure to recuse sua sponte for conflict of interest amounted to “improper favoritism” towards the defendant.

Complainant further alleges that the judge denied her initial motion to remand the case to state court “because the defendant preferred to have the judge preside which is improper, and misconduct by both the defendant and judge, ongoing collusion and infringement on ethical right to due process, . . . and biased favoritism between judge and defendant.” She also complains that the judge issued a “false,” “void” and “fraud[ulent]” dismissal order “based on false inaccurate misleading information that was not credible,” and erroneously held that complainant’s federal claims were untimely filed based on a “judicial fictional date.”

To the extent that these allegations relate directly to the merits of decisions or procedural rulings, including any implicit decision not to recuse sua sponte, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

---

<sup>1</sup> Contrary to this claim, the docket records that the only judge to whom the case was assigned was the subject judge, on the date the case was opened.

In other respects, any assertions of bias, impropriety, and collusion 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.”

Finally, complainant complains that the judge intentionally delayed transmitting the first Notice of Appeal to the Fifth Circuit.

Clerk’s office personnel, not judges, are responsible for transmitting notices of appeal to the Fifth Circuit, and the allegation is therefore subject to dismissal as frivolous 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

December 26, 2023