

FILED

January 9, 2024

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-23-90092 and 05-23-90093

MEMORANDUM

Complainant, a state prisoner, has filed a complaint alleging misconduct by the subject United States District Judge and the subject United States Magistrate Judge in complainant's 28 U.S.C. § 2254 proceeding.

Complainant alleges that the magistrate judge violated his due process rights and engaged in "intentional discrimination" by negligently and prejudicially failing to:

- "carry out the civil process in the procedural law and way of the administering [sic] justice";
- "check and see if the grand jury indictment is legal";
- "check the authentic[ity] of affidavits that was [sic] forgery by District Attorney's Office" and "report illegal activity of fraud in court, fraud in law, due to the misprision of a felony";
- "send order of discovery, . . . order an evidentiary hearing, . . . schedul[e] a pretrial conference, . . . appoint counsel"; and,
- "acknowledge my claims that was presented" including "my claims of Speedy Trial [Act] violation."

He further alleges that the magistrate judge's Report and Recommendation contained "egregious" findings that "threaten the integrity and proper functioning of the judiciary." Without providing any evidence in support of the assertions, complainant also alleges that the magistrate judge engaged in ex parte communication with, and "us[ed] the judge's office to obtain special treatment for," the Defendant who is "a friend or relative, also business partner in law."

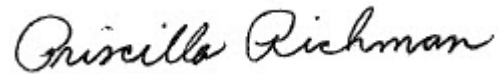
Complainant complains that the district judge "failed to give discovery," "refuse[d] to review [my] claims," gave the Defendant "special treatment," engaged in "fraudulent concealment of fraudulent practice by fraud," and accepted the magistrate judge's erroneous and prejudicial Report and Recommendation. Complainant further submits that the district judge violated his "affirmative duty to apply applicable law" by falsely, egregiously, and wantonly finding that complainant had failed to show deprivation of his Constitutional rights, and by improperly denying a certificate of appealability.

In addition, without presenting any evidence in support of the claims, complainant asserts that the subject judges "undermin[ed] the fairness of the courts of justice" by conspiring with the Defendant and accepting bribes.

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). In other respects, any assertions of intentional discrimination, ex parte communication, use of judicial office to obtain special treatment for the Defendant, conspiracy, and accepting bribes 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

December 29, 2023

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

United States Court of Appeals
Fifth Circuit
FILED
February 16, 2024
Lyle W. Cayce
Clerk

Complaint Numbers: 05-23-90092 and 05-23-90093

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

[REDACTED]

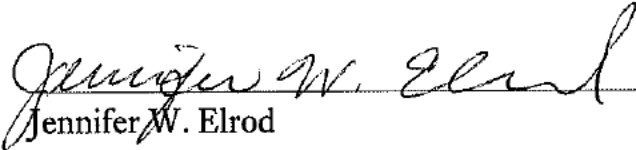
Under the Judicial Improvements Act of 2002, 28 U.S.C. §§ 351-364.

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 9, 2024, dismissing the Complaint of [REDACTED] against [REDACTED] and [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

2/9/24
Date


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