

Judicial Council for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

January 9, 2024

Lyle W. Cayce
Clerk

Complaint Number: 05-23-90106

MEMORANDUM

Complainant, a pro se litigant, has filed a complaint alleging misconduct by the subject United States Magistrate Judge who is presiding by consent in the underlying employment discrimination matter.

Complainant appears to assert that the judge has unduly delayed entering a decision in response to a “motion in opposition to summary judgment” in which, complainant claims, she demonstrates the error of the judge’s decision that the defendants’ motion to dismiss should be converted to a motion for summary judgment. Complainant states further that she is “concerned” that the delay in considering her motion indicates that the judge “is prejudiced” and is therefore “unable to perform her duty.”¹

To the extent, if any, that these allegations relate directly to the merits of a decision or procedural ruling, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, delay in rendering a decision is not evidence of prejudice, and this aspect of the complaint is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii). *See* Rule 4(b)(2) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings.

¹ Complainant signed the instant complaint on August 1, 2023, at which time her motion had been pending for twenty-two days.

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.

A handwritten signature in cursive script that reads "Priscilla Richman".

Priscilla Richman

Chief United States Circuit Judge

December 29, 2023