

**FILED**

January 9, 2024

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-24-90003

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## MEMORANDUM

Complainant, a pro se litigant, has filed a complaint alleging that the subject United States District Judge violated Rule 4(a)(1)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings in two cases by “using the judge’s office to obtain special treatment for [a] friend[],” i.e., defense counsel.

Complainant states that the plaintiff in Case 1 is “a friend to my ex-girlfriend” and she testified as a witness in his federal lawsuit against the same defendant (Case 2). He claims that, in May 2023, the plaintiff told him that “[defense counsel] or his office contacted her [in February 2023] to find out what is her district complaint about,” told her “[it] is gonna [sic] be good if she settle[s] with his client this case . . . because he can not [sic] lose a case in [the subject judge’s] court,” and “[i]f she doesn’t believe him she should ask her friend (meaning [me]).” Complainant posits that defense counsel felt free to “intimidate” and “threaten” the plaintiff because he was “assured by the judge that rules will not apply.”

Complainant alleges that the judge’s failure to order the defendant to show cause why it had failed to file an answer to plaintiff’s complaint in March 2022, and his affording the defendant the “privilege” of filing a Motion for a More Definite Statement in February 2023, constitute evidence of the judge’s “using his court to help [defense counsel’s] clients keep alive the case.” He surmises that the judge “is returning a favor or something . . . to those he likes or knows.”

Complainant further asserts that the judge’s (alleged) favoritism towards defense counsel in Case 1 “tells” him that the judge “possibly ex-partly [sic] allowed [defense counsel] to sue [a different] witness [for complainant in Case 2] in state court so he can be ahead with [Case 2].”

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).

As to the allegations of improper conduct, complainant has not provided an affidavit from the plaintiff attesting to defense counsel’s alleged statements, and he does not claim that the judge was aware of—let alone concurred with—the statements. Similarly, he has provided no proof that the judge and defense counsel have a personal friendship or that they engaged in ex parte communication. Such conclusory allegations are 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.



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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**  
April 9, 2024  
Lyle W. Cayce  
Clerk

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Complaint Number: 05-24-90003

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.

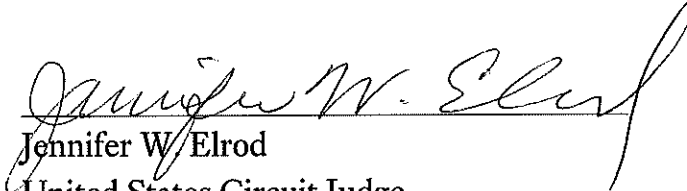
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**ORDER**

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] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

April 5, 2024  
Date

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