

**FILED**

January 9, 2024

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-24-90005

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## MEMORANDUM

Complainant, a state pretrial detainee, alleges that the subject United States Circuit Judge has an “inherent bias or prejudice” against him because he is an “African American male” and “an incarcerated pro se litigant who does not have a degree,” and because the judge formed a negative “personal opinion” of complainant “through illegal ex parte communications with counsel for the opposing party” regarding “an allegation that I statutorily raped someone . . . and another false allegation that I sexually assaulted my own daughter.”

Complainant submits that in an order entered in June 2023, the judge demonstrated “impropriety, bias, prejudice, and favoritism” by denying his “routine” motion to view and obtain all sealed documents, whereas the judge later granted the Appellee’s “equally similar” motion. He further claims that “[n]one of the documents that I filed, or orders pertaining to these filings, have been made public,” thereby demonstrating that the judge “allow[ed] and direct[ed] her deputy clerks to hide her unethical conduct . . . through keeping them off publicly accessible portals like PACER.” Complainant also notes that the copies of documents entered in his appeal sent to him by the clerk’s office usually include a “running header” setting out the appeal number, an eleven-digit document number, the page number, and the docketing date. He reports that the header was missing from a clerk’s office

letter notifying him of the docketing of his appeal and from the copy of the June 2023 order, and he concludes that the judge “instructed” clerk’s office personnel not to docket those documents in the public record “to obscure” her “personal predilections,” “reservations,” and “disdain” for him.

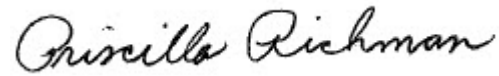
A review of PACER shows that the “running header” is affixed to every document that has been docketed in the underlying appeal, including complainant’s filings and related orders, and there is no indication that documents are not publicly accessible. According to court information technology personnel, certain procedures “ensure that the printed copies we provide include a header” but, “depending on how the document is accessed, and sometimes the preference settings in CM/ECF of the user, the header may not appear [when the document is printed].” The missing headers were due to clerk’s office errors in the process of printing the documents, not judicial misconduct.

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). To the extent that complainant asserts that the judge instructed clerk’s office personnel to “keep” his filings and related orders “off publicly accessible portals like PACER,” the allegation is contradicted by the record and is therefore subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii). In other respects, any assertions of prejudice, bias, and improper ex parte communication 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.

This is complainant's third merits-related and conclusory complaint, and he has been warned previously against filing further merits-related, conclusory, frivolous, or repetitive complaints. Complainant's right to file complaints is hereby SUSPENDED pursuant to Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Complainant may show cause, through a petition for review submitted pursuant to Rule 18, why his right to file further complaints should not be so limited.

An order dismissing the complaint is entered simultaneously herewith.



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Priscilla Richman

Chief United States Circuit Judge

December 29, 2023

**FILED**

February 28, 2024

Lyle W. Cayce  
Clerk

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

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Complaint Number: 05-24-90005

Petition for Review by [REDACTED]

Regarding Complaint of Misconduct and/or Disability Against  
[REDACTED]

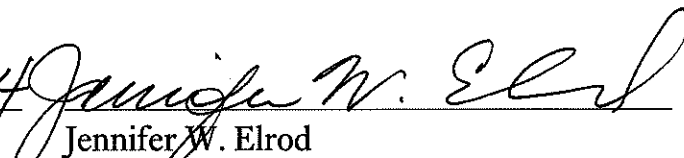
Under the Judicial Improvements Act of 2002, 28 U.S.C. §§ 351-364.

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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 IN ALL RESPECTS.**

02-22-2024   
Date \_\_\_\_\_ Jennifer W. Elrod  
United States Circuit Judge  
For the Judicial Council of the Fifth Circuit