

Judicial Council for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

January 9, 2024

Lyle W. Cayce
Clerk

Complaint Numbers: 05-24-90019 and 05-24-90020

MEMORANDUM

Complainant, a federal 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. § 2241 proceeding.

Complainant alleges that the magistrate judge's Report and Recommendation, the district judge's order denying his motions to alter or amend judgment, and the district judge's delay in ruling on his motion to clarify that order, constitute evidence of the "arbitrary and capricious behavior of both these judges that indicate bias," "prejudice," and "unfairness."

To the extent that the 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). Any assertion that those adverse rulings constitute evidence of bias and prejudice appears entirely derivative of the merits-related charges, but to the extent the allegation is separate, it is wholly unsupported, and is 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." In other respects, a delay in rendering a decision is not evidence of judicial misconduct, and this aspect of the complaint is

therefore also 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.

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

January 8, 2024

FILED

February 28, 2024

Lyle W. Cayce
Clerk

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

Complaint Numbers: 05-24-90019 and 05-24-90020

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

[REDACTED]
[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]

[REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

02-22-2024 Jennifer W. Elrod
Date Jennifer W. Elrod

United States Circuit Judge

For the Judicial Council of the Fifth Circuit