

**FILED**

March 19, 2024

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Numbers: 05-24-90038

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## MEMORANDUM

Complainant, a federal prisoner, has filed a complaint alleging misconduct by a United States Magistrate Judge in complainant's 28 U.S.C. § 2241 proceeding.

Complainant alleges that the judge colluded with an Assistant United States Attorney to delay decisions unnecessarily on complainant's § 2241 petition and Rule 11 motion. He alleges the judge's motive in delaying the decisions is part of a conspiracy "to enable the admission in Federal court of illegal inadmissible evidence" and to render his § 2241 petition moot because he will soon be released from prison. Complainant appears to complain further that the judge "choose [sic] to not conducted [sic] any hearing."

The fully briefed § 2241 petition was pending before the judge for less than two months. The motion for sanctions was pending just over four months. These delays, by themselves, do not constitute judicial misconduct, and any assertion of improper motive or conspiracy "lacks sufficient evidence to raise an inference that misconduct has occurred" and is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii). *See* Rule 4(b)(2), Rules For Judicial-Conduct and Judicial-Disability Proceedings. 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).

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/or conclusory judicial misconduct complaint. Complainant is WARNED that should he file a further merits-related, conclusory, frivolous, or repetitive complaint, his right to file complaints may be suspended and, unless he is able to show cause why he should not be barred from filing future complaints, the suspension will continue indefinitely. See Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.



Priscilla Richman

Chief United States Circuit Judge

March 14, 2024

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

United States Court of Appeals  
Fifth Circuit

**FILED**

May 3, 2024

Lyle W. Cayce  
Clerk

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Complaint Number: 05-24-90038

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 March 19, 2024, dismissing the Complaint of [REDACTED]

[REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

Date

*April 26, 2024* *Jennifer W. Elrod*

Jennifer W. Elrod

United States Circuit Judge

For the Judicial Council of the Fifth Circuit