

FILED

April 16, 2024

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-24-90057

MEMORANDUM

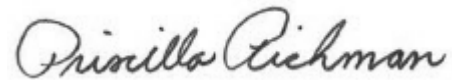
Complainant, a private citizen, has filed a complaint alleging misconduct by a United States magistrate judge.

Complainant alleges that the judge inappropriately lent the prestige of the federal judiciary by allowing himself to be used as a reference on an attorney's application for appointment to a state government position. Complainant alleges that the applicant, who was ultimately appointed to the position, is currently under investigation for tampering with government records and the judge's reference "irresponsibly places the federal judiciary in the position of being called as a witness in a criminal or misconduct proceeding."

Advisory Opinion 73, Guide to Judiciary Policy, Vol. 2B, Ch. 2, § 220, provides that a judge may write a letter of recommendation or otherwise communicate his or her opinion on an applicant when the judge is personally aware of facts or circumstances that would facilitate an accurate assessment of the individual under consideration. The opinion further suggests that a judge can alleviate concerns under Canon 2B of the Code of Conduct for United States Judges by adopting a practice of inviting an applicant to list the judge as a reference with the understanding that, if requested to do so by the prospective employer, the judge may respond with information known to the judge concerning the applicant.

Accordingly, there is “[in]sufficient evidence to raise an inference that misconduct has occurred” and the complaint is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

An order dismissing the complaint is entered simultaneously herewith.

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

Priscilla Richman
Priscilla Richman
Chief United States Circuit Judge

April 12, 2024