

**FILED**

June 24, 2024

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-24-90077

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## MEMORANDUM

Complainant, a state prisoner, has filed a complaint alleging misconduct by the subject United States Magistrate Judge in complainant's 42 U.S.C. § 1983 action against prison officials and medical personnel.

Complainant complains that in recommending that the Defendants' Motion for Summary Judgment be granted, the magistrate judge: "held that due to my various motions and complaints I had caused the Court much confusion and difficulty in evaluating my claims"; and, despite complainant's filing "evidence of material facts that demonstrated a great likelihood of success on the merits of a constitutional violation," the magistrate judge "then used [his] office to allow the Attorney General's counsels [sic] to violate Rule 11 Fed. Rule of Civ. Proc., engage in fraud by misrepresentation, attempt at [sic] obstruction of justice, and other misconduct to unfairly obtain summary judgment by purposely covering up a dispute of material facts" regarding the progression of complainant's health condition and his eligibility for certain medical treatment.

Complainant submits further that the magistrate judge "allowed the Defendants, agents, and employees at the [prison] Mailroom to commit obstruction of justice by withholding, tampering, and damaging [my]

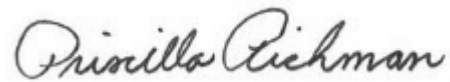
summary judgment response on December 20 [sic], 2020.”<sup>1</sup> He provides no further information in support of this claim. As the record indicates that the magistrate judge held that complainant’s response was timely filed, it does not appear that complainant suffered any prejudice from the delay in mailing the response. The allegation is therefore construed as being aimed at the judge’s failure to sanction the Defendants for (purportedly) “tampering” with, “damaging”, and intentionally delaying mailing the response.

Complainant concludes that the magistrate judge “used [his] office” to engage in “subtle bias [sic] judicial misconduct of [sic] a state prisoner litigating against representatives of the government.”

To the extent that these allegations relate directly to the merits of the decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertion of bias appears entirely derivative of the merits-related charges, but to the extent the allegation is separate, it is wholly unsupported and is 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.



Priscilla Richman  
Chief United States Circuit Judge

June 21, 2024

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<sup>1</sup> A review of the docket indicates that the response was signed on December 28, 2020, and it was mailed in an envelope postmarked January 11, 2021.

**FILED**

September 13, 2024

Lyle W. Cayce  
Clerk

# Before the Judicial Council of the Fifth Circuit

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Complaint Number: 05-24-90077

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.

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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 June 24, 2024, dismissing the Complaint of [REDACTED] against [REDACTED] [REDACTED], under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

Date

September 9, 2024

*Jennifer W. Elrod*  
Jennifer W. Elrod

United States Circuit Judge

For the Judicial Council of the Fifth Circuit