

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

---

Complaint Number: 05-24-90106

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 then-Chief Judge Priscilla Richman, filed October 1, 2024, dismissing the Complaint of [REDACTED] against [REDACTED] under [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

Dec 14, 2024  
Date

Catharina Haynes  
Catharina Haynes  
United States Circuit Judge  
For the Judicial Council of the Fifth Circuit

**FILED**

October 1, 2024

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

---

Complaint Number: 05-24-90106

---

## MEMORANDUM

Complainant, an attorney, has filed a complaint alleging misconduct by the subject United States District Judge in a 42 U.S.C. § 1983 action against a local law enforcement agency and an officer. Complainant represents the Plaintiff.

### *Background*

In response to the judge's request for supplemental briefing on the issue of qualified immunity, the Defendants, in addition to filing a supplemental brief, submitted two flash drives containing the Defendant-Officer's body-camera video. The clerk's docket entry records that one drive was put in the file room, and one was sent to the judge's chambers.

In a November 2023 order dismissing many of Plaintiff's claims, the judge found it inappropriate to consider the body-camera video on a motion to dismiss, converted the motion to a summary judgment motion with respect to Plaintiff's Fourth Amendment claims, and set a briefing schedule for the summary judgment motion. The Defendants filed a memorandum in support of their motion for summary judgment, and again submitted the flash drives with the body-camera video. The clerk's docket entry records that one flash drive was put in the file room, and the second was sent to the chambers of the magistrate judge to whom preliminary matters had been referred.

Plaintiff filed a motion to strike the body-camera video, arguing that it had not been produced in response to Plaintiff's pre-suit request, and that it was not authenticated. He also filed a motion to strike defense reply brief for untimeliness. Plaintiff sought sanctions against defense counsel (a District Attorney).

In August 2024, the judge entered an order denying Plaintiff's motions to strike and granted the defense motion to file the video evidence. Finding that Plaintiff's counsel (Complainant) had ignored the Local Rules in challenging the timeliness of the defense reply brief, relied on an outdated version of FED. R. CIV. P. 56 to support his admissibility argument, and made "harassing," "unprofessional," and "unacceptable statements" regarding defense counsel's conduct, the judge admonished Complainant that the Court might impose sanctions for any future inappropriate behavior. In a separate order, the judge granted the defense motion for summary judgment.

#### *Allegations*

Complainant states that he "has never seen such flagrant **ex parte dealings, nepotism, and a disregard for established procedural rules**" (emphasis in original). For example, he asserts that the clerk's transmissions of the flash drives to chambers were "ex parte transactions," and he complains that the judge improperly allowed the filing of this "ex parte" evidence. He further complains that the judge allowed the Defendants to file the allegedly late reply brief and issued a "specious" ruling granting summary judgment which "blatantly stated falsehoods" and improperly "lambasted" Complainant for taking exception to defense counsel's "misdeeds" and "egregious acts."

Complainant also alleges that the judge prejudged the case, colluded with the defense, and conferred ex parte with defense counsel to allow the admission of the video evidence because, prior to taking the federal bench, the judge was previously a state court judge "housed in the same building"

as the District Attorney's Office. Complainant offers no evidence of such collusion or ex parte meetings other than the judge's history and his rulings in the instant case.

To the extent that these allegations relate directly to the merits of decisions and procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the assertions of collusion, ex parte meetings, and prejudgment of the case 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.

An order dismissing the complaint is entered simultaneously herewith.



---

Priscilla Richman  
Chief United States Circuit Judge

October 1, 2024