

**FILED**

October 1, 2024

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-24-90112

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## MEMORANDUM

Complainant, a pro se litigant, has filed a complaint alleging misconduct by the subject United States Magistrate Judge who presided by consent in Complainant's employment discrimination suit. He appears to further assert that the magistrate judge is suffering from a "judicial inability" to "discharge all the duties of office by reason of mental or physical disability."

Despite the case initially being assigned to a United States District Judge who then referred preliminary matters to the magistrate judge, Complainant accuses the Defendant of "judge shopping" for the magistrate judge whose case manager (purportedly) "happens to be a loyal ex-employee of [Defendant]," and he asserts that the magistrate judge was somehow complicit in the Defendant's improper conduct. He presents no evidence in support of this claim.

Complainant further alleges that the magistrate judge:

— "[I]gnored" the Defendant's "criminal misconduct and obstruction of justice," and was an "acting participant and party to the egregious criminal misconduct" by "aiding and abetting defense counsel ... through her decisions and inhumane reasonings."

- “[P]ractic[ed] law from the bench . . . by essentially directing counsel to “Fix This” in mediation for \$150,000.” Complainant provides no further information in support of this allegation.
- “Mocked”, “shamed”, and “sexually harassed” Complainant during a hearing in October 2019, by displaying the graphic photos he emailed to her case manager, “angrily” accused him of “PORNOGRAPHIC & OBSCENE perversions against the court,” and “allowed” the case manager to “stage a threat of criminal prosecution in a court order, as to silence me as Plaintiff/Complainant to [sic] further pursue a claim.”<sup>1</sup>
- Restricted Complainant’s access to the courts. For example:
  - In an order entered in October 2019, the magistrate judge prohibited him from contacting chambers by email and telephone except in regard to setting a hearing.
  - In an order entered in October 2020, the magistrate judge required Complainant to docket his filings with the district court Clerk of Court instead of sending them to chambers and prohibited him from requesting further assistance from the case manager.
- “Prohibit[ed] recording of the proceedings as a means to conceal misconduct[.]” Complainant provides no information in support of this assertion.
- “Concealed” or was responsible for unspecified “false and missing entries in the docket sheet that never made the pre-motion [sic] hearing” scheduled for August 2021.”

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<sup>1</sup> Contrary to this claim, the magistrate judge did not threaten Complainant with criminal prosecution in the order at issue; rather, she remarked that some of his email communications may be a violation of federal criminal law and ordered that no further communications shall contain any obscene materials.

- Retaliated against Complainant for seeking reconsideration of her denial of his motion to recuse.
  - Instead of promptly holding a hearing on the motion for reconsideration, the magistrate judge scheduled a hearing for ten months later (in August 2021) and did not “file reasoning for the extended delays of proceedings.” The “time frame of 10 months” violated “due process” and was also “Unusual” and “Cruel” because the magistrate judge and her case manager knew Complainant “would suffer in Homelessness & Impoverishment during the height of the Covid-19 Pandemic.”
  - Did not hold a hearing on the motion for reconsideration, and instead denied the motion in an order dismissing the case with prejudice in March 2021.
- Erroneously and/or improperly denied Complainant’s motions “for default judgment”<sup>2</sup> and recusal, and erroneously and/or improperly granted the Defendant’s “motion to dismiss”<sup>3</sup> and “motion to strike.”
- Lacked jurisdiction after Complainant filed a Notice of Appeal to enter an order denying his motions to appoint counsel, to proceed in forma pauperis on appeal, and for reconsideration of summary judgment.
- Is unable to “discharge all the duties of office by reason of mental or physical disability.” Complainant provides no further information in support of this claim.

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<sup>2</sup> There is no docket entry for a “Motion for Default Judgment” and Complainant does not specify the order in which the purported motion was denied.

<sup>3</sup> According to the docket, the district judge, not the magistrate judge, ruled on the Defendant’s Motion to Dismiss for Failure to State a Claim.

To the extent that these allegations relate directly to the merits of decisions and procedural rulings, including the decision to show the graphic images Complainant emailed to the case manager, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

To the extent that Complainant complains that during the October 2019 hearing, the magistrate judge expressed annoyance and anger regarding his emailing graphic images to the case manager, the Supreme Court of the United States has held that judicial bias is not established by a judge's "expressions of impatience, dissatisfaction, annoyance, and even anger, that are within the bounds of what imperfect men and women, even after having been confirmed as federal judges, sometimes display. A judge's ordinary efforts at courtroom administration—even a stern and short-tempered judge's ordinary efforts at courtroom administration—remain immune." *Liteky v. U.S.*, 510 U.S. 540, 555-556 (1994).

In other respects, the wholly unsupported assertions that the magistrate judge "aided and abetted the Defendant" and is suffering from a disability are 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" or that the magistrate judge is suffering from a disability that renders her unable to discharge the duties of judicial office.

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

**FILED**

November 26, 2024

Lyle W. Cayce  
Clerk

# Before the Judicial Council of the Fifth Circuit

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Complaint Number: 05-24-90112

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

The Order is therefore **AFFIRMED**.

11-25-2024  
DATE

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