

FILED

January 27, 2025

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-24-90014

IN RE COMPLAINT OF JUDICIAL MISCONDUCT UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

MEMORANDUM

Complainant, a pro se litigant in an adversary proceeding in bankruptcy court, has filed a complaint alleging misconduct by a United States Bankruptcy Judge (“Judge A”).¹ Pursuant to Rule 25 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, consideration of this complaint has been assigned to me.

Failure to report misconduct

Complainant alleges that Judge A violated his duty to report misconduct under Canon 3(B)(6) of the Code of Conduct for United States Judges (“the Code”) because he failed to report another judge’s (“Judge B”) romantic relationship with an attorney.

Judge B resigned from the bench after his romantic relationship with the attorney was made public. The attorney’s law firm regularly appeared before Judge B and public records showed that Judge B approved attorneys’ fees payable to the firm for work performed by the attorney.² Complainant

¹ To the extent Complainant makes allegations of misconduct against court staff and/or a former federal judge, those allegations are dismissed because the complaint procedures in 28 U.S.C. §§ 351-364 do not apply to court staff or former federal judges.

² Based on this public information, then-United States Chief Circuit Judge Priscilla Richman identified a complaint against Judge B pursuant to 28 U.S.C. 351(b). Judge B

alleges that Judge A and Judge B “had a long professional and personal relationship,” and that “it is hard to believe that [Judge A] was fully ignorant of a relationship so well-known.”

In support, Complainant notes that Judge A and Judge B have spoken publicly about their close professional and personal relationship. In addition, Complainant alleges that it is likely that Judge A attended social events run by local bankruptcy attorneys at which Judge B and the attorney may also have been present.

Rule 4(a)(6) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings provides that cognizable misconduct includes failing to report “any reliable information reasonably likely to constitute misconduct.” But the evidence Complainant presents only shows that Judge A developed a close professional and personal relationship with Judge B and that Judge A may have attended events hosted by the local bankruptcy legal community at which Judge B and the attorney may also have been present. Complainant offers no evidence that Judge A had “reliable information” of the Judge B-attorney relationship before the relationship became public. In an abundance of caution, however, I contacted Judge A as part of a limited inquiry pursuant to Rule 11 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Judge A denies having any knowledge of the Judge B-attorney relationship prior to it becoming public.

Because Complainant has not offered any evidence that Judge A had reliable information of the Judge B-attorney relationship before it was made public, this aspect of the complaint 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.”

submitted a letter of resignation, and the complaint matter was concluded pursuant to 28 U.S.C. § 352(b)(2).

Failure to recuse

Complainant alleges that Judge A should have recused himself in a particular bankruptcy proceeding because of his alleged knowledge of the Judge B-attorney relationship and his friendship with Judge B.

To the extent this allegation is “directly related to the merits of a decision or procedural ruling,” it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). Any assertion that Judge A had an improper motive in failing to recuse himself is subject to dismissal for the reasons stated in the preceding section as “lacking sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant also alleges that Judge A failed to recuse himself in Complainant’s adversary proceeding, in which the “main cause of action was a claim of Fraud Upon [sic] the Court perpetrated by [a law firm].” Specifically, Complainant alleges that Judge A should have recused himself because a partner at the law firm was a friend of Judge A. Complainant cites public remarks by Judge A at a presentation in which the judge referred to the partner as “my friend.” Complainant also contends that Judge A should have recused himself because the partner served on a bankruptcy court committee, which Complainant claims has a “supervisory role over [Judge A].”

Judge A’s reference to the partner as “my friend,” a remark frequently used in the legal profession to show respect towards colleagues, is not evidence that the judge had a personal bias. Moreover, Complainant’s allegation that the partner had a supervisory role over Judge A is inaccurate. According to the general order issued by the bankruptcy court, the committee is limited to making recommendations to the court related to complex case procedures, rules, and management and submitting a semi-annual report related to these functions.

To the extent this allegation is “directly related to the merits of a decision or procedural ruling,” it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). Any allegation that Judge A had improper motive in failing to recuse himself 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.”

“Incongruencies” between reported income and investments

Complainant alleges that Judge A’s annual Financial Disclosure Reports (AO-10 form) contain “incongruencies” between his reported investments and income. In support, Complainant attaches a report which was allegedly produced by a private equity firm. Complainant states that the firm’s “reports are not meant to be conclusory, but rather indicative of potential irregularities that should be explored under the power of subpoena in order to confirm findings.” The report, which is marked confidential and does not provide any information about why it was produced or who sponsored it, provides that the data relied on is “limited to what has been publicly disclosed and may not capture all financial activities” and that the firm “makes no definitive affirmations of accuracy.”

An allegation that purports only to provide a basis for further investigation in hopes that the investigation will produce evidence of misconduct does not amount to sufficient evidence to raise an inference that misconduct has occurred. “Rule 6(b) makes clear that the complaint must be more than a suggestion to a Chief Judge that, if he opens an investigation and the investigating body looks hard enough in a particular direction, he might uncover misconduct. It must contain a specific allegation of misconduct supported by sufficient factual detail to render the allegation credible.” *In re Memorandum of Decision of Judicial Conference Committee on Judicial Conduct and Disability*, 591 F.3d 638, 646 (U.S. Jud. Conf. Oct 26, 2009).

This aspect of the complaint is 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.”

Willful misapplications of law

Without providing any evidence in support, Complainant alleges that Judge A made willful misapplications of law in rulings in Complainant’s case.

“A cognizable misconduct complaint based on allegations of a judge not following prevailing law or the directions of a court of appeals in particular cases must identify clear and convincing evidence of willfulness, that is, clear and convincing evidence of a judge’s arbitrary and intentional departure from prevailing law based on his or her disagreement with, or willful indifference to, that law.” *In re Memorandum of Decision of Judicial Conference Committee on Judicial Conduct and Disability*, 517 F.3d 558, 562 (U.S. Jud. Conf. Jan. 14, 2008) (decided before 2008 Rules were enacted).

To the extent this allegation is “directly related to the merits of a decision or procedural ruling,” it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). Any assertion of improper motive is conclusory and 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.”

Failure to provide written reasons for rulings

Without providing any evidence in support, Complainant alleges that Judge A denied his request for written reasons for rulings to prevent or discourage Complainant from appealing the judge’s decisions.

To the extent that this allegation is “directly related to the merits of decisions or procedural rulings,” it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). Any assertion of improper motive is conclusory and 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.”

Cognizable delay

Complainant alleges that Judge A engaged in a “cognizable pattern of delayed rulings in cases alleging Fraud Upon [sic] the Court.” In support of this claim, Complainant alleges the judge delayed a ruling for ten months in Complainant’s case and that a litigant in an unrelated bankruptcy proceeding “similarly experienced prolonged delays.” Without providing any evidence, Complainant claims Judge A had an improper motive for the delays.

These delays alone do not constitute a “habitual delay in a significant number of unrelated cases,” and Complainant does not provide any evidence that Judge A had an improper motive for the delays. *See* Rule 4(b)(2) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings and its commentary. Therefore, this allegation 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.” In other respects, any challenge to the timing of Judge A’s issuance of a decision in a specific case is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii) as “directly related to the merits of decisions or procedural rulings.”

Improper ex parte communications

Complainant alleges that Judge A engaged in a “cognizable pattern of potential ex parte communication.” In support, Complainant references an on-the-record courtroom exchange between himself and Judge A in which Complainant believes “it was quite apparent” that the judge had ex parte communications about an email Complainant sent to a law firm. However, the exchange Complainant describes provides no evidence that Judge A had an improper ex parte communication.

Complainant also references a law journal article and a document filed in an unrelated bankruptcy proceeding, which he alleges “documented that ... [Judge A] routinely engaged in ex-parte communications when referencing facts that were not on the record.” A review of those documents reveals no suggestion, let alone evidence, that Judge A engaged in improper ex parte communications.

This aspect of the complaint 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.”

Improper sealing of reasons for reassignment of cases

Complainant alleges that Judge A was a “willing participant in the practice” of sealing the reasons behind the reassignment of cases between judges and that such practice “raises the prospect for potential improprieties.” Complainant does not explain how this conduct could amount to cognizable misconduct.

To the extent this allegation relates directly to the merits of decisions or procedural rulings, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). Any assertion of improper motive is conclusory and 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.”

Failure to disclose conflict of interest

Complainant alleges that Judge A engaged in an “cognizable pattern of inconsistent declarations of a conflict with respect to his first cousin once removed.” In support, Complainant references a “retention application” in which a law firm disclosed a familial relationship between Judge A and his first cousin once removed, who was a partner at the law firm. Complainant states that his inability to find a similar disclosure in any other cases is evidence of misconduct by Judge A.

Pursuant to Canon 3(C)(3)(a) of the Code, a first cousin once removed is not a relationship within the third degree that requires disqualification under Canon 3(C)(1)(d). Complainant’s reliance on Canon 4(D)(4) is misplaced, as that canon applies to the prohibition of a judge’s family member, who lives in the judge’s household, from accepting gifts. Complainant does not cite any other law or rule Judge A is alleged to have violated to support this allegation of misconduct.

To the extent this allegation relates directly to the merits of Judge A's implied decision not to recuse himself or disclose his familial relationship in a specific case, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertion of improper motive 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."

Improper participation in political organization

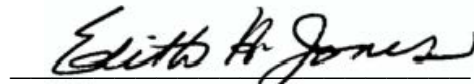
Complainant alleges that Judge A violated Canon 5 of the Code by participating as an officer in a political organization. Specifically, Complainant alleges that Judge A was listed as a registered agent on a Secretary of State filing for an entity owned by the judge's adult child. Without providing any supporting evidence, Complainant alleges that the entity was created to manage Judge A's child's "political endeavors, political contributions, and generally [the child's] main business interest as a political persona."

Canon 5(A)(1) provides that a judge should not act as a leader or hold any office in a political organization. A registered agent is not a leader or officer of an entity. Rather, the registered agent is merely a designee who may be served any legal process or notice on that entity. Simply serving as a registered agent of an entity, without more, is not sufficient evidence to raise an inference that misconduct has occurred. Moreover, as part of my limited inquiry into the allegations of this complaint, Judge A reported to me that he had no recollection of being the registered agent for the entity, had no other connection to the entity, and had no knowledge of the activities in which the entity was engaged.

This aspect of the complaint 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." Moreover, the entity was dissolved in June 2022, rendering this allegation subject to conclusion under 28 U.S.C. § 352(b)(2)

because “action on the complaint is no longer necessary because of intervening events.”

An order dismissing the complaint is entered simultaneously herewith.

A handwritten signature in black ink, reading "Edith H. Jones", is positioned above a horizontal line. The signature is written in a cursive style.

Edith H. Jones
United States Circuit Judge

FILED

April 30, 2025

Lyle W. Cayce
Clerk

**Judicial Council
for the Fifth Circuit**

Complaint Number: 05-24-90014

IN RE COMPLAINT OF [REDACTED] AGAINST

[REDACTED]
[REDACTED]
UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

REVISED ORDER

The Judicial Council order entered March 31, 2025, contained a small error regarding a date. Accordingly, the prior order is WITHDRAWN, and the following order is SUBSTITUTED therefor:

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 Edith H. Jones, filed January 27, 2025, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore AFFIRMED.



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