

**JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

April 2, 2020

Lyle W. Cayce
Clerk

Complaint Number: 05-20-90060

M E M O R A N D U M

Complainants, two pro se litigants, allege that the subject United States District Judge’s adverse rulings constitute evidence of bias, collusion with defense counsel, conflict of interest, bullying, and mental disability.

For example, they allege that:

- The judge denied confirmation of complainants’ arbitration agreement “immediately after [defense counsel] entered in false documents and opinion from a foreclosure case in [another State] which has nothing to do with filings.”
- Without affording complainants an opportunity to oppose the motion, the judge granted a defense motion for an extension of time to reply to complainants’ response to a court order.
- “The judge is from the Bar and [defense counsel] is from the Bar . . . which shows the comradery [sic] and biasness [sic] . . . [and] collusion of the two.”
- The judge has presided over several cases seeking confirmation of arbitration agreements prepared by Company X, as well as a case in which a lender-plaintiff is suing Company X, and he should have recused sua sponte in all cases where a party is seeking to confirm an arbitration agreement prepared by Company X because he has demonstrated “bias and prejudice against [Company X]” to the detriment of “all awardee[s] of arbitration.”

- In several cases involving arbitration agreements prepared by Company X, the judge quoted another district court’s opinion describing complainant’s agreement in disparaging terms, and the judge is thereby “appearing to establish law which is only don[e] by the people through legislature [sic].”
- The judge disregarded “the facts we put in affidavits of facts and witnesses of notary and the [State] seal of documents” and “[we] are con[c]erned that the judge has some disabilities in performance of the law given from Federal Arbitration Association.”
- “[We] did not request judgment, [we were] requesting a confirmation that is allow[ed] [us],” and the judge thereby denied complainants due process.
- The judge’s admonishment that complainants were expected to maintain a minimum level of courtesy toward the court, court staff, opposing parties, and opposing counsel amounted to “bullying” and “show[ed] a lack of decorum, contention and lack of professionalism.”

To the extent that these allegations relate directly to the merits of decisions or procedural rulings, including failing to recuse sua sponte, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertions of bias, collusion with defense counsel, mental disability, or bullying appear entirely derivative of the merits-related charges, but to the extent the allegations are separate, they 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” or that the judge is suffering from a mental disability.

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 R. Owen
Chief United States Circuit Judge

April 1, 2020

FILED

September 10, 2020

Lyle W. Cayce
Clerk

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

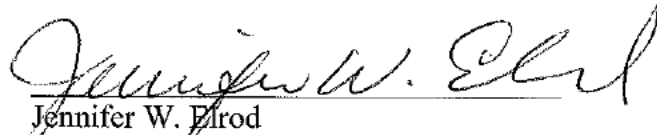
No. 05-20-90060

Petition for Review of [REDACTED]
of the Final Order Filed April 2, 2020,
Dismissing Judicial Misconduct Complaint
Against [REDACTED]
Under the Judicial Improvements Act of 2002.

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 R. Owen, filed April 2, 2020, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.
The Order is therefore **AFFIRMED**.

Aug. 31, 2020
Date


Jennifer W. Elrod
United States Circuit Judge
For the Judicial Council of the Fifth Circuit