

FILED

May 20, 2022

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-22-90059

MEMORANDUM

Complainant, a state prisoner, has filed a complaint alleging misconduct by the subject United States District Judge [“Judge A”]. Although complainant does not specify an underlying district court proceeding, the complaint appears related to his 1998 federal criminal proceeding.

Complaint reports: “I wrote a letter to the U.S. Probation Office on January 21, 2022, stating that I refuse to comply with 18 U.S.C. § 3583(g)(3) which requires a judge to revoke the supervision term [when a prisoner refuses to comply with drug testing imposed as a condition of supervised release].” Complainant claims that he sent a copy of the letter to Judge A who “has refused to comply with federal law (18 U.S.C. § 3583(g)(3)) which makes revocation mandatory.”

A review of the docket in the 1998 case indicates that it is assigned to a different United States District Judge [“Judge B”]. Complainant’s letter has not been docketed.¹

¹ In 2019, Judge B enjoined complainant from filing anything further related to the term of federal supervised release while in state custody and stated that any such submissions would not be addressed or acknowledged.

Assuming Judge A received the copy of complainant's letter, the complaint relates directly to the merits of the judge's implicit decision not to act in a case assigned to another judge and is therefore subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(ii).

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.

/s/ Priscilla Richman

Priscilla Richman

Chief United States Circuit Judge

May 18, 2022

FILED

July 13, 2022

Lyle W. Cayce
Clerk

Before the Judicial Council of the Fifth Circuit

Complaint Number: 05-22-90059

Petition for Review by [REDACTED]
of the Final Order Filed May 20, 2022,
dismissing the Judicial Misconduct Complaint against

[REDACTED]
[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 Richman, filed May 20, 2022, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

July 6, 2022
Date

Jennifer W. Elrod
Jennifer W. Elrod

United States Circuit Judge

For the Judicial Council of the Fifth Circuit