

**FILED**

March 15, 2023

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-22-90127

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## MEMORANDUM

Complainant, a state prisoner, appears to allege that the subject United States Magistrate Judge:

- demonstrated bias in a pending 42 U.S.C. § 1983 proceeding by granting the Defendants’ motion for leave to file a motion for summary judgment out of time;
- demonstrated further bias by granting the Defendants’ motion for summary judgment and by doing so without first holding a hearing regarding complainant’s claims that the Defendants had failed to provide full discovery relevant to the motion;
- “lie[d] stating neither party . . . filed any motion concerning the need for additional discovery” after complainant presented “an overwhelming amount of evidence of wrongdoing but a crime as well . . . that my due process to courts is being violated”; and
- “rejected” complainant’s [unspecified] pro se motions regarding “relevant issues.”

To the extent that these allegations relate directly to the merits of decisions or procedural rulings, they are subject to dismissal under 28 U.S.C.

§ 352(b)(1)(A)(ii). In other respects, any assertions of bias 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.”

This is complainant’s third merits-related and conclusory complaint against the magistrate judge, and his second such complaint regarding the same proceeding. Complainant is WARNED that should he file a further merits-related, conclusory, frivolous, or repetitive complaint, his right to file complaints may be suspended and, unless he is able to show cause why he should not be barred from filing future complaints, the suspension will continue indefinitely. *See* Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.

/s/ Priscilla Richman  
Priscilla Richman  
Chief United States Circuit Judge

March 15, 2023

**FILED**

April 5, 2023

Lyle W. Cayce  
Clerk

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

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Complaint Number: 05-22-90127

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 Chief United States Circuit Judge Priscilla Richman, filed March 15, 2023, dismissing the Complaint of [REDACTED] against [REDACTED]

[REDACTED]  
[REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

*April 4, 2023*  
Date

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