

FEB 03 2020

FIFTH CIRCUIT  
LYLE W. GAYNE, CLERK**JUDICIAL COUNCIL  
FOR THE FIFTH CIRCUIT**

---

Complaint Number: 05-20-90026

---

**M E M O R A N D U M**

Complainant, a pro se litigant, alleges that the subject United States Magistrate Judge's Findings, Conclusions, and Recommendations regarding complainant's claims were erroneous, "false," incomprehensible, "very hostile," and "discriminated against me when he took sides." For example, complainant takes issue with the magistrate judge's recommendation—later withdrawn—that complainant's filing of multiple unauthorized amended complaints contrary to court orders, filings which resulted in the court's cancelling a pretrial scheduling conference and abating all deadlines, constituted contumacious conduct warranting dismissal of the lawsuit with prejudice. Complainant protests: "There was no delay caused by me, only delay was caused by [the magistrate judge]" who failed to "call me in to explain and clarify any point he was trying to make."

Noting that he expected to have an opportunity to present his claims to the court in a hearing, complainant reports that "the only meeting" was a Rule 26(f) conference ordered by the magistrate judge. He appears to complain that he was disadvantaged by the conference being held in defense counsel's law office "across the street from the courthouse," and he objects that the magistrate judge did not attend. Complainant further submits that defense counsel's commenting "out of the blue" during the conference that he had seen the magistrate judge's child on a television show is the "type of knowledge" that could "only c[o]me in person[al] communication" with the

magistrate judge. Complainant posits that these factors “lead one to believe that there is something going on between the court and [defense counsel].”

To the extent that these allegations relate directly to the merits of the magistrate judge’s decisions and procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertions of hostility, bias, prejudice, or conflict of interest 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.”

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

January 30, 2020

U. S. COURT OF APPEALS  
FILED

FEB 28 2020

FIFTH CIRCUIT  
LYLE W. GAYNE, CLERK

BEFORE THE JUDICIAL COUNCIL  
OF THE FIFTH CIRCUIT

---

No. 05-20-90026  
Petition for Review by [REDACTED]  
of the Final Order Filed February 03, 2020,  
Dismissing Judicial Misconduct Complaint  
Against [REDACTED]  
Under the Judicial Improvements Act of 2002.

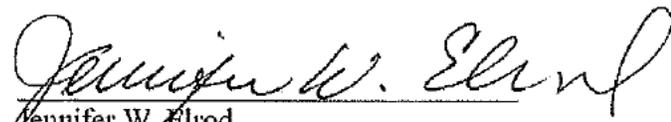
---

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 February 03, 2020, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

2/27/2020  
Date

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