

**JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT**

U. S. COURT OF APPEALS

FILED

MAR 09 2020

FIFTH CIRCUIT

LYLE W. CAYCE, CLERK

Complaint Number: 05-20-90035

M E M O R A N D U M

Complainant, a civil litigant, has filed a judicial misconduct against the subject United States District Judge who presided over complainant's 2011 employment discrimination action against a federal government agency. The crux of the complaint seems to be complainant's disagreement with the judge's decision requiring the parties to abide by the terms of a settlement agreement, ordering the defendant to pay complainant \$5,000, and dismissing complainant's claims without prejudice. It appears that the defendant paid the settlement monies to complainant's attorney ["Mr. X"] to distribute to his client.

Complainant alleges that the \$5000 settlement constituted a "bribe" by the judge "to his personal friend" Mr. X "to settle cases [sic] against [my] wishes," and to cover up "that all legal work was performed by [me]" and Mr. X "had no intention of taking the case to court."¹

In response to the Clerk's request to provide further information in support of these claims, complainant submits that the "personal friend[ship]" is evident from the following statements made by the judge during the hearing in which the decision was made:

— The judge remarked that he was aware from his ten years on the bench that Mr. X regularly engaged in mediations on behalf of his clients,

¹ Although complainant refers to multiple cases, according to PACER his only case in the in federal district court is the underlying matter.

but the judge did not know of any other client claiming Mr. X settled their case without authorization. Complainant posits that the judge's admitted knowledge of Mr. X's cases could only be "because he sees [the attorney] every day. The court may not sit every day and [Mr. X] is not docketed on [the judge's] court [sic] every day. But, the Judge sees him every day means [sic] a personal friend."

— After complainant told the judge he was dissatisfied with Mr. X's representation and requested time to find new counsel, the judge "thr[e]w a 2[-]year[-]old temper tantrum because I fired his personal friend in opens [sic] court." A review of the audio-recording clearly shows that the judge did not "throw a temper tantrum", i.e., his tone of voice and language in addressing complainant's concerns were entirely neutral.

— The judge said: "Any issue you have with [Mr. X] you will have to take up with him." There is no such statement in the record. Complainant seems to be referring to a discussion of his claim that he did not sign a settlement agreement, and that Mr. X had no authority to sign an agreement on his behalf. The judge stated that if complainant believed Mr. X did not act in compliance with his authority to take positions on complainant's behalf during the mediation, "that's a matter between you and Mr. [X]."²

— The judge said: "We would all like to know what the big secret is." There is no such statement in the record. Rather, in a separate discussion about language complainant wanted added to the settlement agreement and, in response to defense counsel's repeated

² Official transcript of hearing, at 20.

reference to “additional terms,” the judge asked: “[W]hat is the mystery? Remove the mystery. What are the two things he wants?”³

None of the comments about which complainant complains constitute proof that that the judge and Mr. X “see each other every day,” let alone that they are “personal friends” and/or that the judge’s decision to enforce the settlement agreement was “a bribe.” Regardless, to the extent, if any, that complainant is complaining that the judge failed to recuse sua sponte due to a (purported) conflict of interest, the allegation relates directly to the merits of the judge’s implied decision and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the conclusory allegation of bribery is so lacking in indicia of reliability that no further inquiry is warranted and is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant further alleges that “the criminally corrupt” judge “allowed [defense counsel] to threaten me in his court stating that the agency would continue to refuse my A.D.A. accommodations and Veteran Preference for bringing this matter to [sic] before the court.” A review of the transcript shows that the record does not support the claim that defense counsel’s refusal of complainant’s requests for additional language in the settlement agreement constituted a “threat” or retaliation against him for filing the lawsuit, let alone that the judge condoned such conduct.

To the extent, if any, that this aspect of the complaint relates directly to the merits of the judge’s decision not to order the defendant to include the additional language in the settlement agreement, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, complainant’s conclusory assertion of bias is insufficient to raise an inference that misconduct has occurred, and the allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

³ *Id.* at 13.

Other allegations

The remainder of complainant's copious unsupported allegations are either nonsensical or appear to be complete fabrications. For example:

- The judge “is directing [Mr. X] to keep the client file . . . to hide his corruption and the full amount of the bribes he paid to cover this up” and “continues to allow [Mr. X] . . . to keep a \$1500 check deposited into his personal bank account which was meant for me.”
- The judge engaged in “ex parte communications after [Mr. X] was fired to have him sign a global agreement, bypassing myself and attorneys . . . He has [Mr. X] sign and submit[] to him documents on behalf of the government.”
- The judge (also) bribed Mr. X “on cases that [the judge] does not even or ever had on his docket, which [Mr. X] was never hired for, or in which both [Mr. X and the judge] knows [sic] the plaintiff has another attorney of record.”
- “The corrupt judge goes as far as to cover up sexual harassment by and with his personal friend.” Complainant refers to a Facebook page entitled “Law Office of [Mr. X].” A review of the webpage shows that the only postings are by: an attorney giving the firm a five-star rating in March 2016; a client Mr. X represented in state court who posted photos of herself “at the Law Office of [Mr. X]” in June and July 2018; and, individuals commenting favorably about those photos. There is no indication that Mr. X created the Facebook page or is aware of its existence,⁴ and despite neither Mr. X nor the judge posting any comments, complainant contends that the Facebook page proves the

⁴ The Facebook page includes the following explicit disclaimer: “This unofficial Page was created because people on Facebook have shown interest in this place or business. It's not affiliated with or endorsed by anyone associated with Law Office of [Mr. X].”

judge “covered up” and participated in Mr. X’s “sexual harassment” of his female client.

— The judge bribed Mr. X “to “settle” reports of felonies (to include prostitution rings) to cover up for government officials,” failed to “report the felonies conduct in his presence,” and “provide[d] [the] alleged bribes to cover up Obstruction of Justice and Conspiracy to commit Obstruction of Justice.” The crimes the judge allegedly “covered up” include: conspiracies related to murders, alien smuggling; drug smuggling; assault, sexual assault, murder, felony perjury, and nepotism; a federal employee “selling shoes on government time and claiming he does not know what shoes are”; the deaths of seven inmates at an Immigration and Customs Enforcement [“ICE”] facility (deaths Quesada claims were “associated with” an ICE agent who is “a known drug abuser”); the return of a “deported felon from Mexico into the U.S. so he can drink in the U.S. on New Year’s Day”; and “numerous supervisors having sex with their subordinate on government overtime, with government vehicles and lying to federal investigators about it.”

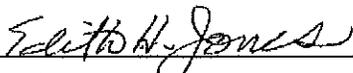
These conclusory allegations of bribery, ex parte communication, bias, sexual harassment, “conspiracy to obstruct justice,” and “criminal corruption” are so lacking in indicia of reliability that no further inquiry is warranted and are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

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.

The filing of unsupported and scurrilous allegations is an abuse of the complaint process. 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.



Edith H. Jones
United States Circuit Judge

Feb. 12, _____, 2020