

FEB 27 2020

FIFTH CIRCUIT  
LYLE W. GAYNE, CLERK

JUDICIAL COUNCIL  
FOR THE FIFTH CIRCUIT

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Complaint Numbers: 05-20-90042 through 05-20-90046

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MEMORANDUM

Complainant, a pro se litigant, alleges misconduct by the three subject United States District Judges, the subject United States Magistrate, and a former United States District Judge.

Former Judge

Complainant appears to allege that even though the judge referred her 2002 matter to a magistrate judge for “pretrial proceedings,” no trial was ever held. She posits, erroneously, that the “trial” was delayed because the judge resigned and, due to district court error, the case was then dismissed. The record clearly shows that the matter was concluded when the judge denied complainant’s motion for reconsideration in 2003. Given that the judge resigned from office many years after the case was terminated, his resignation could not have affected complainant’s case.

The Judicial Improvements Act of 2002 (the “Act”) defines “judge” as “a circuit judge, district judge, bankruptcy judge, or magistrate judge.” 28 U.S.C. § 351(d)(1). Because the former judge has resigned from the office of district judge, he does not fall within the scope of persons who can be investigated under the Act. Therefore, this aspect of the complaint is concluded because of intervening events pursuant to 28 U.S.C. § 352(b)(2).<sup>1</sup>

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<sup>1</sup> The undersigned notes that, if this were not the case, these allegations would be subject to dismissal as merits-related and frivolous under 28 U.S.C. §§ 352(b)(1)(A)(ii) and (iii).

### Judge A

Complainant alleges that Judge A “1) abused discretion, 2) had my 2011 case “stricken from the record” without legal basis which prevented me from using case/evidence in other cases, 3) deprived me [of] Equal Protection, 4) [and] violated my right to Due Process as I couldn’t properly address the Court without that case.”

To the extent, if any, that these allegations relate directly to the merits of Judge A’s decision to deny complainant’s motion to proceed in forma pauperis, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegations are clearly contradicted by the record—the case was not “stricken from the record” and was ultimately reassigned to, and dismissed by, a different district judge—and are therefore subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii).

### Judge B, Judge C, and the Magistrate Judge

Complainant claims that Judge B “[w]as [a] neighbor to my cousins who raised me and later came to celebrate his appointment as judge here . . . [t]hey each knew about my case.” She complains that Judge A “was harsh & cruel” to her in an unspecified order, denied her motion for change of venue, and should have recused sua sponte due to a conflict of interest. Complainant further asserts that after the case was reassigned to Judge C, the local newspaper “reported [Judge B] ruled on another case. Was this an error?”


To the extent that the allegations relate directly to the merits of Judge B’s decisions or procedural rulings, including failure to recuse sua sponte based on a purported conflict of interest, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegations are nonsensical or frivolous and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant also complains that Judge C erroneously dismissed the case “citing failure to comply” with an order to file a short and plain amended complaint. She asserts that during a hearing two days prior to the deadline for filing the amended complaint, “the Clerk printed and gave the [magistrate] judge a copy of my [Motion for Case to Be Sent to Defendants; Request for Counsel] in court which stated my claim.”

The allegation relates directly to the merits of Judge C’s and/or the magistrate judge’s decisions or procedural rulings and is therefore 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.

An order dismissing the complaint is entered simultaneously herewith.



Priscilla R. Owen

Chief United States Circuit Judge

February 21, 2020

**FILED**

August 20, 2020

Lyle W. Cayce  
Clerk

BEFORE THE JUDICIAL COUNCIL  
OF THE FIFTH CIRCUIT

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No. 05-20-90042 through 05-20-90046  
Petition for Review by [REDACTED]  
of the Final Order Filed February 27, 2020,  
Dismissing Judicial Misconduct Complaint

against [REDACTED]

Under the Judicial Improvements Act of 2002.

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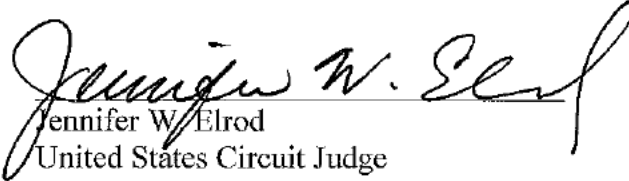
ORDER

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 Judge Priscilla R. Owen, filed February 27, 2020, dismissing the Complaint of [REDACTED] against [REDACTED]

[REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

8/18/2020  
Date

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