

MAR 12 2020

FIFTH CIRCUIT
LYLE W. GAYNE, CLERK

**JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT**

Complaint Number: 05-20-90047

MEMORANDUM

Complainants, pro se litigants, complain that the subject United States Magistrate Judge denied their motion for entry of default judgment, failed to dismiss a defendant's motion for sanctions, and failed to act sua sponte on a party-defendant's failure to timely file responsive pleadings.

These allegations relate directly to the merits of the magistrate judge's decisions or procedural rulings and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Complainants further allege that the magistrate judge unduly delayed ruling on defense motions.

Pursuant to Rule 4(b)(2) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings, an allegation about delay in rendering a decision or ruling is not cognizable misconduct "unless the allegation concerns an improper motive or habitual delay." As complainants do not allege the former, and there is no evidence of the latter, the allegation is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Without providing any evidence in support of the contention, complainants also allege that the magistrate judge exhibited a "personal bias or prejudice against pro se parties."

This conclusory assertion lacks sufficient evidence to raise an inference that misconduct has occurred and is therefore also subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Judicial misconduct proceedings are not a substitute for the normal process of appellate review, nor may they be used to obtain reversal of decisions or a new trial.

An order dismissing the complaint is entered simultaneously herewith.



Priscilla R. Owen
Chief United States Circuit Judge

March 9, 2020

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

April 7, 2020

Lyle W. Cayce
Clerk

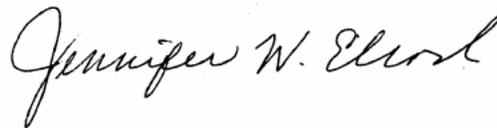
No. 05-20-90047

Petition for Review by [REDACTED],
of the Final Order Filed March 12, 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 March 12, 2020, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.



April 7, 2020
Date

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