

FILED

February 5, 2021

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-21-90023

MEMORANDUM

Complainant, a state prisoner, complains that the subject United States District Judge improperly found that the district court clerk did not intentionally “defraud” complainant by docketing his “criminal complaint” —addressed to the “U.S. District Attorney” at the district court clerk’s office address—as a 42 U.S.C. § 1983 action.”¹ He appears to further assert that the judge failed to transmit the criminal complaint to the United States Attorney’s Office. Complainant concludes that the judge “obstructed and interfered with a witness reporting a crime” and “intentionally den[ied] me access to the Courts to aid and abet and hinder the prosecution of those accused of Federal crimes.”

Complainant also submits that “because of the criminal interference by the U.S. Magistrate [sic], Clerk and prison officials, . . . I need the complaints transferred to (R. 26, 5th Cir.) another Court that I may receive help if the prison even allowed them to be mailed.” He seems to be referring to purported “additional [criminal] complaints,” and to Rule 26 of the Rules for Judicial Conduct and Judicial-Disability Proceedings which provides that, “in exceptional circumstances, a chief judge . . . may ask the Chief Justice to transfer” a complaint filed under 28 U.S.C. §§ 351-364 to another Circuit.

¹ When complainant advised the court that his criminal complaint was docketed erroneously as a lawsuit, the judge construed the letter as a notice of voluntary dismissal and ordered the clerk to close the case.

Rule 26 is not applicable to complainant’s criminal complaints. To the extent, if any, that complainant might be seeking transfer of the instant 28 U.S.C. §§ 351-364 complaint to another Circuit, he has presented no evidence in support of his claims of “criminal interference” by the judge and the district court clerk. I find that there are no “exceptional circumstances” that would warrant my asking the Chief Justice to transfer the complaint to another Circuit under Rule 26, and I decline to make such a request.

Rule 26 is not applicable to complainant’s criminal complaints. To the extent, if any, that complainant might be seeking transfer of the instant judicial misconduct complaint to another Circuit, he has presented no evidence in support of his claims of “criminal interference” by the judge and the district court clerk. I find that there are no “exceptional circumstances” that would warrant my asking the Chief Justice to transfer the instant complaint to another Circuit under Rule 26, and I decline to make such a request.

The complaint relates directly to the merits of the judge’s decisions and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

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 4, 2021

FILED

March 31, 2021

Lyle W. Cayce
Clerk

Before the Judicial Council of the Fifth Circuit

No. 05-21-90023

Petition for Review by [REDACTED] of the Final Order
filed February 5, 2021, dismissing the Judicial Misconduct
Complaint against [REDACTED]
[REDACTED]

[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 5, 2021, dismissing
the Complaint against [REDACTED]
[REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

March 31, 2021

Date

Jennifer W. Elrod

Jennifer W. Elrod

United States Circuit Judge

For the Judicial Council of the Fifth Circuit