

**FILED**

April 13, 2021

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-21-90099

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## MEMORANDUM

Complainant, a state prisoner, has filed a complaint alleging misconduct by the subject United States Magistrate Judge in a pending civil proceeding.

Complainant complains that the magistrate judge lacked jurisdiction under 28 U.S.C. § 636(b)(1) to deny his motion for summary judgment. He further alleges that in summarizing complainant's claims in the order denying summary judgment, the magistrate judge omitted complainant's use of excessive force claim and mischaracterized other claims. Complainant concludes that the adverse and erroneous ruling constitutes evidence that the magistrate judge "is doing favors for the State Attorney General [and] Assistant Attorney General," and "suffers [from] a mental disability where he cannot understand federal law."

To the extent that these allegations relate directly to the merits of decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the conclusory allegations of improper motive and mental disability 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” or that the magistrate judge is suffering from a mental disability.

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.



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Priscilla R. Owen  
Chief United States Circuit Judge

April 11, 2021

**FILED**

May 26, 2021

Lyle W. Cayce  
Clerk

# Before the Judicial Council of the Fifth Circuit

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No. 05-21-90099

Petition for Review by [REDACTED]  
of the Final Order Filed April 13, 2021,  
Dismissing Judicial Misconduct Complaint

Against [REDACTED]

[REDACTED]  
Under the Judicial Improvements Act of 2002.

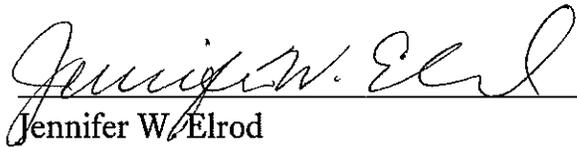
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## ORDER

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 April 13, 2021, dismissing the Complaint of [REDACTED] [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

May 25, 2021  
Date

  
Jennifer W. Elrod

United States Circuit Judge  
For the Judicial Council of the Fifth Circuit