

**FILED**

July 29, 2022

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Numbers: 05-22-90081 and 05-22-90082

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## MEMORANDUM

Complainant, a state prisoner, has filed a complaint alleging misconduct by the subject United States District Judge and the subject United States Magistrate Judge in a pending 42 U.S.C. § 1983 proceeding.

The magistrate judge is retired. As provided by 28 U.S.C. § 351(d)(1) and Rule 1 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, retired judicial officers are not subject to the Judicial Improvements Act. The complaint against the magistrate judge may therefore be concluded under 28 U.S.C. § 352(b)(2).

Complainant complains that the judge: “supposedly conducted a *de novo* review but somehow failed to notice” that certain findings in the magistrate judge’s Report and Recommendation were erroneous and improper; “claim[ed] to have dismissed [my] claims due to lack of proof even as he denied [me] the right/access to [my] own medical records and request of admissions”; “gave the defendants 40 days to file a third amended motion for summary judgment . . . thus exposing prejudicial favor for the defendants”; and “wrongfully and obviously discriminatorily denied” his application to proceed in forma pauperis on appeal.

In addition, complainant objects that the judge improperly “acted in the capacity of [an] unlicensed medical expert” by adopting certain findings in the magistrate judge’s report, and “called me a liar when mine [sic] and

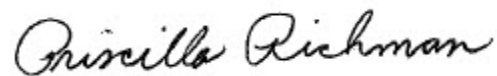
the defendants' evidence proved my assertions and facts as true . . . said to be false only against me while the defendants [were] given chance after chance unsolicitedly [sic].” He concludes that the judge treated him in a demonstrably egregious and hostile manner “by discriminating against [me] because [I am] a black prisoner.”

To the extent that the complaint relates directly to the merits of decisions or procedural rulings, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertions of bias and discrimination appear entirely derivative of the merits-related charges, but to the extent the allegations are separate, they are wholly unsupported, and are therefore also 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.”

Finally, complainant complains about “district court” errors in mailing “so-called-sealed legal documents” to him. Clerk’s office personnel, not judicial officers, are responsible for mailing court documents and the allegation is therefore subject to dismissal as frivolous 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 Richman  
Chief United States Circuit Judge

July 25, 2022

**FILED**

August 17, 2022

Lyle W. Cayce  
Clerk

# Before the Judicial Council of the Fifth Circuit

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Complaint Numbers: 05-22-90081 and 05-22-90082

Petition for Review by [REDACTED]

of the Final Order Filed July 29, 2022,

Dismissing the Judicial Misconduct Complaint Against

[REDACTED] and  
[REDACTED]

Under the Judicial Improvements Act of 2002.

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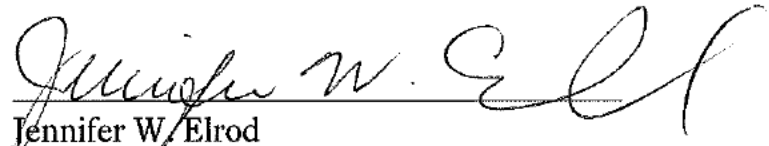
## ORDER

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 Richman, filed July 29, 2022, dismissing the Complaint of [REDACTED] against [REDACTED] and [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

8/15/2022

Date



Jennifer W. Elrod

United States Circuit Judge

For the Judicial Council of the Fifth Circuit