

**FILED**

January 9, 2024

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Numbers: 05-23-90090 and 05-23-90091

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## MEMORANDUM

Complainant, a federal prisoner, has filed a complaint alleging misconduct by the subject United States District Judge and United States Magistrate Judge in complainant’s 28 U.S.C. § 2255 proceeding.

Complainant alleges that the magistrate judge:

- appointed counsel to represent him in the evidentiary hearing, but “pulled the rug out from under me” by appointing an attorney whose “real job assignment was to lay down for this and similar prosecutor misconduct”;
- “abandoned his role as gate-keeper of the ‘expert evidence,’ and not only permitted [a Department of Homeland Security Agent] to tell any lie [the Assistant United States Attorney] prompted from him for the Government, but the magistrate judge ignored that [the Agent’s] statements were obviously false in order to ensure that only the government would win’”; and,
- entered a “stunningly absurd and bizarre” Report and Recommendation “[taking] notice of key facts to write favorably for the Government, but he failed to acknowledge the glaring incongruities about those facts.”

Complainant alleges that the district judge:

- “failed to take steps to remediate the fraud” perpetrated by the Government, “simply said that there was other evidence to support the warrant without saying what that evidence was supposed to be,” and “never explained why he refused to acknowledge or reconcile the incongruities” of the Government’s case;
- “is a dirty cheater and fosters misconduct by the Government’s attorneys and federal agents by facilitating, ignoring, and protecting their fraudulent conduct”; and,
- “had the district court clerk backdate and insert his [order denying complainant’s Rule 60(b) motion] months before my motion to supplement” and withhold notice of the order to conceal his “dirty trick.”

Complainant also alleges that the subject judges:

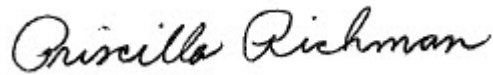
- knew that [the Agent] was committing crimes by “distributing child pornography to troll for suspects to prosecute” and “repeatedly acted in a teleological manner with this knowledge to conceal [the agent’s] crimes and his victimization of children”;
- knowingly “conceal[ed] that my Constitutional Rights had been intentionally violated by [the Agent and the AUSA]”;
- “knowingly and intentionally perpetrated FRAUD ON THE COURT with [the AUSA] by facilitating in every way necessary the Government’s false version of facts designed to conceal the lies in the search warrant” and the Agent’s crimes and lies, “and to prevent me from proving I did not distribute child pornography”;
- “refused to correct my sentence by reducing it for not sharing files, which would have been the only fair thing to do”; and,

— engaged in these “egregious . . . judicial antics . . . for the purpose of arranging an unjust outcome that would not have occurred without the judicial cheating.”

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, any assertions of improper motive and bias 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.”

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 Richman

Chief United States Circuit Judge

December 29, 2023