

**FILED**

January 9, 2024

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

---

Complaint Numbers: 05-23-90124 and 05-23-90125

---

## MEMORANDUM

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

Complainant alleges that “the lil [sic] more than a 2 and [sic] half year delay in ruling on certain pleadings . . . where the court itself ha[s] impeded my ability to effect process of service upon the defendants,” constitutes evidence of the district judge’s and the magistrate judge’s “failure to perform their duties diligently . . . even after reopening the case [in March 2023].”

A review of the docket contradicts this claim. Between December 2021 and June 2022, complainant filed fifteen (15) motions and six (6) objections/requests for de novo review (as well as numerous letters and notices to the court). The district judge and the magistrate judge issued orders explicitly addressing ten of these motions and objections/requests, with the longest “delay” in ruling being three months. In a Final Judgment entered in July 2022, the district judge dismissed complainant’s lawsuit without prejudice and ordered that all motions not previously ruled on were denied. In an order entered in March 2023, the district judge reinstated the case, but the order did not “reinstate” the motions that were summarily denied in July 2022.

To the extent, if any, that this allegation relates directly to the merits of the orders entered in July 2022 and March 2023, or to orders denying complainant's motions requesting that the Clerk effect service of process on the defendants, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegation that the district judge and the magistrate judge failed to perform their duties diligently by unduly delaying ruling on complainant's motions and objections/requests is contradicted by the record and is therefore subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant appears to further complain that the magistrate judge unfairly "scold[ed]" him for photocopying for his personal use postage-paid Business Reply Mail envelopes which, the order explained, had been provided by the Clerk for complainant's use in returning completed summonses.

The allegation relates directly to the merits of a decision or procedural rulings and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant recounts that he has requested copies of the financial disclosure reports of the district judge, the magistrate judge, and non-judicial district court personnel from the Judicial Conference of the United States Committee on Financial Disclosure ["JCUS Committee"]. Complainant reports that the U.S. Treasury Check he sent to the JCUS Committee to pay for the copies of the financial disclosure reports was returned "without any reason explaining why."


Despite admitting that the JCUS Committee has not yet responded to his written request for an explanation why the check was returned, complainant posits that "a person of reasonable intelligence" would conclude that the check was returned because the district judge and the magistrate judge "refused to authorize[] the release of their reports in

violation of the statute contrary to the plain language of 5 USC 130103(b) [sic] which allows anyone to request copies of those reports.”

Such a conclusory assertion is 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.



---

Priscilla Richman  
Chief United States Circuit Judge

December 29, 2023

**FILED**

February 28, 2024

Lyle W. Cayce  
Clerk

# Before the Judicial Council of the Fifth Circuit

---

Complaint Numbers: 05-23-90124 and 05-23-90125

Petition for Review by [REDACTED]  
Regarding Complaint of Misconduct and/or Disability Against

[REDACTED]  
[REDACTED]  
Under the Judicial Improvements Act of 2002, 28 U.S.C. §§ 351-364.

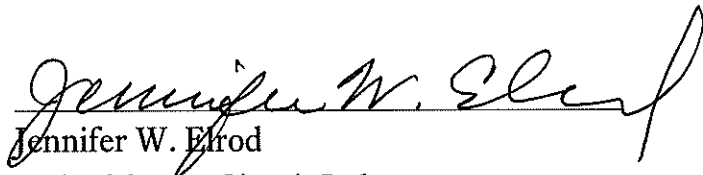
---

## 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 January 9, 2024, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

02/22/2024  
Date

  
Jennifer W. Elrod

United States Circuit Judge

For the Judicial Council of the Fifth Circuit