

FILED

April 16, 2024

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-24-90053

MEMORANDUM

Complainant, a criminal defendant, has filed a complaint alleging misconduct by the subject United States Magistrate Judge in his criminal proceeding.

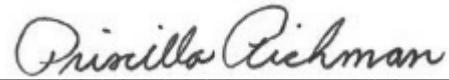
Complainant complains during a motions hearing, the magistrate judge “threatened” complainant and his co-defendant “right before the trial date and prevented us defendants from replacing the lying lawyers by saying ‘we are playing a dangerous game’ for simply asking to change to new lawyers.” He further alleges that by “obstruct[ing] us from getting new competent lawyers,” the magistrate judge “stopped us from getting our trial as [sic] we asked for.”

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, a review of the record shows that the magistrate judge’s remarks that complainant and his co-defendant were “playing a dangerous game” seeking to withdraw their guilty pleas two weeks before sentencing and asking the court to order a psychological evaluation, were not “threatening,” rather the judge was sternly admonishing them to consider—in consultation with defense counsel—the potentially adverse consequences of those motions. This aspect of the complaint is 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.



Priscilla Richman
Chief United States Circuit Judge

April 12, 2024