United States Court of Appeals
Fifth Circuit
**FILED**
August 18, 2025
Lyle W. Cayce
Clerk

# Judicial Council for the Fifth Circuit

Complaint Number: 05-25-90071

IN RE COMPLAINT OF JUDICIAL MISCONDUCT
UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

## ORDER

Complainant, a private citizen, has filed a complaint alleging misconduct by a United States District Judge. Complainant alleges that the judge permitted the concealment of, or took no action on, certain conflicts of interest and permitted defense counsel to engage in misconduct in a criminal case. He further alleges that in administering an oath of office to an elected state official, the "leveraged the prestige of office of the federal court" to "promote the private interests" of the state official and implicitly endorsed a political candidate/party. Complainant concludes that the judges "politically compromised and unlawful" actions have undermined the integrity of the judiciary "beyond repair."

– *Taking no action on conflicts of interest in criminal case*

Complainant alleges that the judge "allow[ed] conflicts of interest … to interfere with" the criminal case. Complaint reports that a court administrator had an "ongoing, active conflict of interest" due to "familial connections," which "compromised the… case." Without providing any evidence in support, Complainant reports that the court administrator—with the judge's "consent and approval"— "used the prestige of the judiciary to unlawfully request that his identity be concealed and his [conflict of interest] remain undisclosed." Complainant alleges that the judge intentionally did

not disclose "that the court was compromised" by the court administrator's "familial connections," and thereby improperly "allowed the media to propagate false narratives" about the defendant for political purposes.

Complainant offers no evidence for the assertion that the court administrator "interfered with" or "compromised" the criminal proceeding or that the judge improperly failed to disclose the court administrator's purported conflicts of interest. This allegation 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."

Complainant also complains that the judge permitted the then-United States Attorney for the relevant district "to unlawfully prosecute the case for nearly two years despite" the attorney's sister's presence as a bystander at the crime scene, and the judge thereby "facilitated and allowed direct interference in the prosecution of the [case]." The underlying docket does not reflect that the attorney appeared in the case or that defense counsel moved to disqualify the United States Attorney's Office based on the attorney's alleged conflict of interest.

Complainant's allegation that the judge failed to sua sponte disqualify the relevant United States Attorney's Office relates directly to the merits of decisions or procedural rulings and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

– *Colluding with defense counsel in criminal case*

Complainant alleges that there is "a series of audio recordings" which reveal that defense counsel "unduly influenced the ongoing federal proceedings to delay, obstruct, and maximize financial gain." Complainant claims that copies of the recordings "were provided to [the judge] and members of the local media." Complainant has not provided the audio

recordings or any information about when they were made, by whom, and in what context.

Instead, Complainant has provided (purported) "transcripts" of selected statements in which he asserts defense counsel "confesses to colluding with [the judge]" in various ways.

- The defendant was indicted in both state and federal court. Complainant alleges that defense counsel and the judge "entered into an ex parte agreement to prevent the prosecution of the state case without notifying the state prosecutor." In support, Complainant points to defense counsel's statement that the presiding state judge "spoke to [the federal judge]" and they "agreed" that the federal case would proceed first, and defense counsel's statement that he had "filed a sealed ex parte motion with the federal court."

  To the extent Complainant challenges the judge's decision to proceed with the federal case while the state case was abated, this allegation is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii) as directly related to the merits of decisions or procedural rulings. The conclusory assertion of "collusion" between the judge and defense counsel or the state judge 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."

- Complainant alleges that defense counsel—who was appointed represent the defendant in both the federal and state cases—allegedly stated he had told the presiding judges: "I said I'm not going to take this case and have to worry about money for experts, money for this, money for that. I want the same open checkbook, so to speak." Complainant submits that this

statement, combined with defense counsel's purported efforts to ensure that the federal case preceded the state case, constitute proof of defense counsel's "ability to unduly influence the courts" and that he "incentivized delaying the case for his financial gain." Complainant accuses the judge of "permit[ing] [defense counsel] to demand an 'open checkbook' for financial gain."

To the extent Complainant challenges the judge's decisions regarding payments to appointed counsel under the Criminal Justice Act, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii) as directly to the merits of decisions or procedural rulings. The conclusory assertion of "collusion" 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."

- Complainant alleges that defense counsel, in collusion with the judge, "allowed [the United States Attorney] to prosecute the case despite having a conflict of interest." In support, Complainant refers to defense counsel's statement that he decided not to seek disqualification of the then-district attorney whose office was prosecuting the state criminal case. Complainant appears to claim that this statement is applicable to the federal case because that attorney subsequently became the United States Attorney whose office was prosecuting the federal case.

  As discussed previously, the judge's implied decision not to sua sponte disqualify the relevant United States Attorney's Office relates directly to the merits of decisions or procedural rulings and is subject to dismissal under 28 U.S.C.

§ 352(b)(1)(A)(ii). The conclusory assertion of "collusion" 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."

- Complainant submits that defense counsel made statements that "confirm that [the defendant's] capacity to form intent ... was severely impaired" and "he could not have and should not have accepted responsibility for the charges for which he was sentenced." Complainant asserts that defense counsel "intentionally lied to both the state and federal court, falsely claiming that his client had the mental capacity to take responsibility" for the crimes and "did not correct the false characterization of [the defendant] as a 'rage and hate-filled' individual."

  Without providing any evidence in support, Complainant complains that the judge "[u]nlawfully allowed" defense counsel "to plead [the defendant] to facts that were untrue ... [and] to propagate a false narrative [about the defendant], claiming he was mentally capable of taking responsibility despite his documented lifelong severe mental health condition."

  The conclusory assertion that the judge intentionally took no action on defense counsel's "false claims" about the defendant's mental capacity 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."

– *Engaging in impermissible political activities*

Complainant alleges that the judge, "in a questionable act, leveraged the prestige of office of the federal court by" administering the oath of office to a newly elected district attorney, "in front of the press and media at a public park," and "appeared to perform the same function again [five days later] at the state courthouse." Complainant further claims that the act of administering the oath was improper because it "implies support and approval for a politically attained position," and "creates an intermingling of jurisdictions that disrupts the procedures outlined by [state] law[,] ...[that] requires that the statement of office and oath of office be filed with the [Secretary of State]."

Regarding Complainant's assertion that the judge's administration of the oath constituted an implicit endorsement of a political candidate/party, Canon 5(A)(2) of the Code of Conduct for United States Judges provides that "[a] judge should not ... endorse or oppose a candidate for public office." Canon 5(C) further provides that "[a] judge should not engage in any other political activity." In addition, Canon 2(B) states that "[a] judge should n[ot] lend the prestige of the judicial office to advance the private interests of ... others." Rule 3(h)(1)(E) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings defines as cognizable misconduct "engaging in partisan political activity."

At the time the judge administered the oath, the district attorney was not a "candidate for public office" as he had already been elected. Simply administering an oath of office, without more, is not partisan political activity. *See* Judicial Conference Committee on Codes of Conduct Advisory Op. No. 53 ("[P]urely ceremonial events, such as inaugurations, . . . are not considered political" for purposes of Canon 5). Moreover, Complainant has provided no evidence that the judge's act "advanced [the district attorney's] private interests." This allegation 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."

In addition, Complainant believes that the district attorney's installation was fraudulent due to (purported) record-tampering and failure to timely file the required documentation with the Secretary of State. Complainant alleges that the judge's administration of the oath "without confirming that the Statement of Officer was on file" will "expos[e] the federal judiciary to scrutiny ... in any administrative, civil, or criminal proceedings related to the failed installation." This allegation does not constitute cognizable misconduct and 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."

Complainant also submits that it was improper for the judge to administer the oath of office to the district attorney because the state criminal case was still pending, and the district attorney, who was formerly an assistant district attorney involved in the state prosecution, "never raised an objection to [the then-district attorney's] ongoing conflict of interest in prosecuting the case" and "thereby violat[ed] the defendant's due process rights." Complainant alleges that the judge's administration of the oath of office to the district attorney "create[d] the impression that the defendant's rights played a secondary role to political interests." This allegation 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."

This is Complainant's second judicial-conduct complaint to be dismissed (in part) as "lacking sufficient evidence to raise an inference that misconduct has occurred." Complainant is WARNED that should he file a further merits-related, conclusory, frivolous, or repetitive complaint, his right to file complaints may be suspended and, unless he is able to show cause why he should not be barred from filing future complaints, the suspension

will continue indefinitely. *See* Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.

JENNIFER WALKER ELROD
*Chief Judge*