

FILED

June 12, 2024

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-19-90076

MEMORANDUM

Complainant, a governmental entity, alleges that the subject United States District Judge committed misconduct on two occasions with respect to an Assistant United States Attorney.

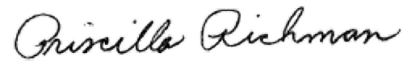
The judge dismissed a criminal case with prejudice for asserted discovery violations by the Assistant United States Attorney. During a hearing, the judge made disparaging remarks about female attorneys. On appeal, the Fifth Circuit reversed the dismissal, and observed in a footnote that the judge's remarks were demeaning, inappropriate, and beneath the dignity of a federal judge.

The Assistant United States Attorney then appeared before the judge in another criminal case. In two successive hearings, the judge "excused" the attorney from the courtroom, and he later told the United States Attorney that the Assistant United States Attorney was not welcome in his courtroom. When the defendant appealed her conviction, the government cross-appealed the judge's act of permanently barring the Assistant United States Attorney from his courtroom. The Fifth Circuit vacated the exclusion order, finding that the judge had abused his discretion.

I agree with the Fifth Circuit opinions finding that the judge's above-described conduct was improper. I note, however, that, in the interim, the judge has taken senior inactive status, relinquished all of his cases, and is no

longer assigned new cases. Given these circumstances, I find that action on the complaint is no longer necessary because of intervening events. 28 U.S.C. § 352(b)(2); Rule 11(a)(3), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

An order concluding the complaint is entered simultaneously herewith.



Priscilla Richman
Chief United States Circuit Judge

June 12, 2024