

JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

FEB 20 2020

FIFTH CIRCUIT
LYLE W. GAYNE, CLERK

Complaint Number: 05-20-90037

MEMORANDUM

Complainant, a state prisoner, complains—based on what appear to be fundamental misapprehensions of orders and advice from the clerk—that the subject United States Magistrate Judge erroneously returned his 28 U.S.C. § 2254 petition for a writ of habeas to a state district court. Complainant further alleges that the magistrate judge has unduly delayed answering his November 2019 and December 2019 filings seeking clarification of that decision.

To the extent that these allegations relate directly to the merits of the magistrate judge's decisions and procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegation of undue delay is subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii) because the clerk promptly responded to the November filing, and the chief district judge—to whom the magistrate judge returned the matter in October 2019—promptly ruled on the December filing.

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 R. Owen
Chief United States Circuit Judge

February 19, 2020

FILED

April 7, 2020

Lyle W. Cayce
Clerk

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-20-90037

Petition for Review by [REDACTED]
of the Final Order Filed February 20, 2020,
Dismissing Judicial Misconduct Complaint

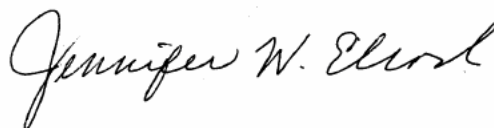
Against [REDACTED]

Under the Judicial Improvements Act of 2002.

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 R. Owen, filed February 20, 2020, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.



April 7, 2020

Date

Jennifer W. Elrod
United States Circuit Judge
For the Judicial Council of the Fifth Circuit