

FILED

November 10, 2020

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-20-90128

MEMORANDUM

Complainants, two pro se litigants who describe themselves as “80+ year[s] old,” allege that the subject United States District Judge engaged in a “consistent pattern of bias” in the underlying civil proceeding. For example, the judge allegedly:

- denied complainants’ motion for electronic filing privileges and, a month later, “refused an extension of time to allow [complainants] to amend their complaint when [Complainant A] was gravely ill in hospital,”¹ decisions which resulted in Complainant B’s having to disregard the State Governor’s “stay at home” orders to drive to the courthouse during “a worldwide plague” to “hand-deliver the documents . . . while [Complainant A] was in hospital on her own”;
- overruled complainants’ objection that the magistrate judge’s Memorandum and Recommendations was “premature”;
- failed to “start formal perjury, contempt or other disciplinary action” based on their objection that one of the attorney-defendants “twice pos[ed] premeditated lies” about the complainants during a status conference before the magistrate judge;

¹ A review of the motion shows complainants told the court Complainant A had been very ill for several days, was too unwell to travel to see a physician, and was recovering at home.

- took no action on their objection that to cover-up his improper and prejudicial conduct during the conference, the magistrate judge “doctored” the transcript and audio-recording and “significantly delayed” providing complainants with copies of those records;² and,
- canceled a conference two days before the scheduled date, and “sordidly exploited and abused his authority as a Judge for malicious and vindictive reasons” by entering final judgment in favor of the defendants the day after canceling the conference, thereby “intentionally depriv[ing] [us] of [our] right to a fair hearing.”

Complainants submit that the judge’s “uncivilized and unlawful” conduct “can only be described as heinous when targeted towards sick, disabled and elderly citizens before the court and in defiance of a pandemic.”

To the extent that these allegations relate directly to the merits of decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertions of “willful misconduct” or bias appear entirely derivative of the merits-related charges, but to the extent the allegations are separate, they are wholly unsupported, and are 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.

This is complainants’ third merits-related and conclusory judicial misconduct complaint. Complainants are WARNED that should they, together or separately, file a further merits-related, conclusory, frivolous, or repetitive complaint, their right to file complaints may be suspended and,

² Complainants state that they intend to file a separate complaint against the magistrate judge.

unless they are able to show cause why they 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.



Priscilla R. Owen
Chief United States Circuit Judge

____ November 8 _____, 2020

FILED

March 2, 2021

Lyle W. Cayce
Clerk

**Before the Judicial Council
of the Fifth Circuit**

No. 05-20-90128

Petition for Review by [REDACTED], of the
Final Order filed November 10, 2020, dismissing the Judicial
Misconduct Complaint against [REDACTED]

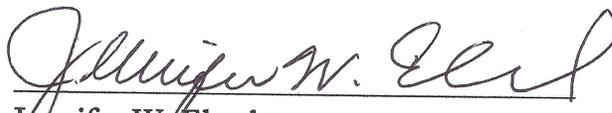
Under the Judicial Improvements Act of 2002.

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 November 10, 2020, dismissing the Complaint against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

March 2, 2021
Date


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