

FILED

January 10, 2022

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-21-90146 and 05-21-90147

MEMORANDUM

Complainant, a pro se litigant, has filed a complaint against the subject United States District Judge and the subject United States Magistrate Judge.

Complainant explains that on January 6, 2021, he filed a request, by email, asking the court to grant him electronic filing privileges.¹ Noting that he is “a healthcare provider” who was “responding to the pandemic emergency” by seeking “the most effective and expeditious administration of the business of the courts,” complainant reports that he filed the request “with assumption of recipient[s] non-disabled understanding of the continuing Public Health and emergent Public Safety concerns.” Final judgment was entered in June 2021. A review of the docket indicates that the court did not enter a ruling on complainant’s request.

Complainant submits that “based on the denial [of] or lack of response to” his request, the judge and the magistrate judge either:

¹ In support of the instant complaint, complainant has provided a copy of a January 6, 2021 email from the district court clerk’s office advising him that he was required to file documents “in person or by mail (unless it is deemed as an emergency) according to the COVID-19 page update on the court’s website.” Contrary to this advice, complainant then submitted, via email, his request for electronic filing privileges. The clerk’s office docketed the request.

- “engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts,” in support of which he claims he did not receive the magistrate judge’s Memorandum and Recommendations (entered June 30) or the court’s Final Judgment (entered June 30) until July 9, 2021 because they were mailed to him “through a non-electronic and non-expeditious format”; or,
- “cannot discharge all the duties of office because of physical or mental disability.”

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 assertion of “physical or mental disability” appears entirely derivative of the merits-related charges, but to the extent the allegation is separate, it is wholly unsupported, and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference an inference” that the subject judicial officers are incapable of discharging the duties of their office.

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

December 28, 2021

FILED

March 4, 2022

Lyle W. Cayce
Clerk

Before the Judicial Council of the Fifth Circuit

Complaint Numbers: 05-21-90146 and 05-21-90147

Petition for Review by [REDACTED]
of the Final Order Filed January 10, 2022,
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 January 10, 2022, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

March 1, 2022
Date

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