

FILED

February 26, 2025

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-25-90023

MEMORANDUM

Complainant, a federal criminal defendant, has filed a complaint alleging that the subject United States Magistrate Judge violated his Fifth, Sixth, and/or Eighth Amendment rights during two hearings in the pending criminal matter.

Arraignment hearing

Complainant complains that “despite [my] objections and without any request or consent from [my] legal counsel” during the arraignment hearing, the magistrate judge “unilaterally entered a [not guilty] plea on [my] behalf.” Complainant submits that the magistrate judge thereby violated his Fifth and Sixth Amendment rights “to due process,” “to participate in and control the decisions regarding [my] own case, particularly with respect to the plea,” and “to have counsel present and to control [his] defense.”

A review of the audio-recording of the hearing shows that, among other things, Complainant challenged the Court’s jurisdiction, refused to be placed under oath or to affirm, refused to answer the magistrate judge’s standard arraignment inquiries, and asserted that the individual named in the indictment was “a fiction.” The recording contradicts Complainant’s recitation of what occurred, i.e., after Complainant repeatedly refused to enter a plea, the magistrate judge advised defense counsel she was going to

enter a plea of not guilty on Complainant's behalf, and defense counsel agreed with that decision.

Regardless, the allegations relate directly to the merits of decisions or procedural rulings and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant further complains that despite the Government's motion for detention being "made without a lawful basis, as no valid reason for detention was provided," the magistrate judge did not order his release. Instead, the magistrate judge improperly and unlawfully scheduled a detention hearing and remanded Complainant to custody "for 56-58 hours," thereby violating his Fifth Amendment rights "to a fair and just legal process, including the right to be free from unlawful detention."

The recording shows that in moving for detention, the Government submitted that Complainant's challenge to the Court's jurisdiction and his assertion that the individual named in the indictment is a fictitious person suggested that no condition or combination of conditions would reasonably assure his presence as required. In response to the magistrate judge's asking how his client would like to proceed on the matter of detention, defense counsel simply requested a detention hearing "any time this week," and the magistrate judge scheduled the detention hearing for two days later.

The allegations relate directly to the merits of decisions or procedural rulings and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Detention hearing

The record shows that at the commencement of the hearing, the magistrate judge asked defense counsel: "Are we proceeding with the detention hearing?" Defense counsel stated that Complainant was prepared to "redo" the arraignment but emphasized that, by participating in the second arraignment, Complainant was not waiving his constitutional right to

challenge the Court's jurisdiction as the case progressed. The magistrate judge proceeded with the arraignment inquiries and Complainant answered all questions.

Complainant claims that "[w]hile unlawfully detained, [I] was coerced into agreeing to a second arraignment under extreme stress, duress, and fear of further detention. [I] made it clear to [defense counsel] that any subsequent arraignment would be conducted under conditions of coercion and duress, which would invalidate any decision made under those circumstances." Submitting that the "second arraignment ... was a continuation of the [prior] coercive and unlawful proceedings," Complainant alleges that he "was effectively forced to comply with the Court's demands under threat of continued detention," and the magistrate judge thereby violated his Sixth Amendment rights "to a fair trial, and to be free from undue influence or pressure in the criminal process."

To the extent that these allegations relate directly to the merits of the magistrate judge's decision to conduct a second arraignment proceeding, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, there is nothing in the record to suggest that the magistrate judge "coerced" Complainant's participation in the proceeding, and the 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."

According to the record, after the arraignment inquiries were completed, the magistrate judge granted the Government's motion to withdraw its motion for detention. The magistrate judge then ordered Complainant's release and, in reading out the conditions of release, asked Complainant to confirm whether he comprehended each one. The conditions included substance abuse testing and treatment, surrender of firearms, surrender of passport and passport card, collection of DNA samples (if required), home detention, and wearing a GPS monitor. The magistrate

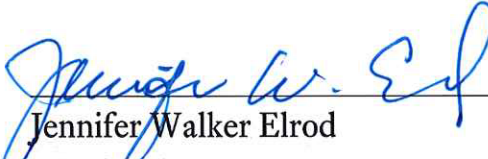
judge answered Complainant's questions, and he confirmed that he understood each condition.

Complainant asserts that the conditions of release were "based on a false and inaccurate criminal record report" and "were wholly inappropriate and without foundation." He alleges that the magistrate judge violated his Fifth Amendment and Eighth Amendment rights by imposing the "punitive," "restrictive," "oppressive," and "unconstitutional bond conditions" without first establishing, for example, whether Complainant "had a history of drug use," had a "history of misusing" his passport card, or "was involved in any criminal activity that would necessitate invasive [collection of DNA samples]."

The allegations relate directly to the merits of decisions or procedural rulings and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

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.


Jennifer Walker Elrod
Chief Judge

February 25, 2025