

FILED

March 24, 2025

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-25-90033

IN RE COMPLAINT OF JUDICIAL MISCONDUCT UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

ORDER AND MEMORANDUM OF REASONS

Complainant, a pro se litigant, has filed a complaint alleging misconduct by a United States Magistrate Judge in a civil proceeding in which Complainant was the Defendant.

The Court issued a notice setting a hearing on Plaintiff's Opposed Emergency Motion to Stay and Dismiss Arbitration Proceedings, and Complainant was instructed to file a response to the motion within four days. Complainant states that he did not receive the hearing notice until the date his response was due.¹ Complainant complains that the delay in notifying him of his right to file a response was prejudicial and it was therefore unfair of the magistrate judge to grant the motion to stay during the hearing.

Complainant further alleges that the magistrate judge "showed b[ia]s" during the hearing "when she stated ... she was ready to rule in favor of [Plaintiff] because she believe[d] I didn't meet my burden of proof." He also claims that "throughout the course of the hearing, [the magistrate judge] continue[d] to show contempt while making her ruling[s] and seem[ed] somewhat removed from fair and impartial ruling[.]" He concludes that the

¹ A review of the underlying docket indicates that Complainant filed a response one day before it was due.

magistrate judge's conduct and rulings violated the Code of Conduct for United States Judges.²

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). The allegation that the judge was contemptuous towards or biased against Complainant is 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." A review of the audio-recording contains no evidence of bias and shows that the judge was respectful and courteous towards Complainant throughout the proceeding.

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.

/s/Jennifer W. Elrod
Jennifer Walker Elrod
Chief Circuit Judge

² Guide to Judiciary Policy, Vol. 2A, Ch. 2. Complainant lists Canon 1 ("a judge should uphold the integrity and independence of the judiciary"), Canon 2 ("a judge should avoid impropriety and the appearance of impropriety in all activities"), and Canon 3 ("a judge should perform the duties of the office fairly, impartially and diligently").