

FILED

April 3, 2025

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-25-90034

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

ORDER AND MEMORANDUM OF REASONS

Complainants, a federal prisoner and a private citizen,¹ have filed a complaint alleging misconduct by the subject United States District Judge in Prisoner-Complainant's criminal case. Complainants further allege that during an online interview in 2020, the judge made remarks that were likely to result in a substantial and widespread lowering of public confidence in the courts among reasonable people, in violation of Rule 4(a)(7) and Canon 4 of the Code of Conduct for United States Judges.

Pursuant to Rule 25(f) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, this matter has been assigned to me for consideration.

Request to transfer complaint to another circuit

Complainants request that I ask the Chief Justice John G. Roberts, Jr., to transfer the complaint to the judicial council of another circuit pursuant to Rule 26 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.² The Commentary on Rule 26 provides:

¹ Citizen-Complainant is the Executive Director of an organization which advocates for cannabis legalization.

² "In exceptional circumstances, a chief judge or a judicial council may ask the Chief Justice to transfer a proceeding based on a complaint identified under Rule 5 or filed

Such transfers may be appropriate, for example, in the case of a serious complaint where there are multiple disqualifications among the original judicial council, where the issues are highly visible and a local disposition may weaken public confidence in the process, where internal tensions arising in the council as a result of the complaint render disposition by a less involved council appropriate, or where a complaint calls into question policies or governance of the home court of appeals.³

In support of their request, Complainants submit that the issues raised in the complaint are “highly visible” and “[t]here may be concerns” that the “personal or professional relationships” that members of the Fifth Circuit Judicial Council have with the judge “could influence the impartiality of the review process, leading to a perception of bias.”

After reviewing the complaint, I find that there are no “exceptional circumstances” that warrant a Rule 26 transfer request. The complaint is not “serious” (i.e., the allegations may be summarily dismissed under 28 U.S.C. §§ 352(b)(1)(A)(ii) and (iii)), there are no issues of multiple disqualifications among the members of the Judicial Council for the Fifth Circuit, the matters raised by the complaint are not highly visible, and a local disposition will not weaken public confidence in the process.

The request is DENIED.

Allegations regarding decisions or procedural rulings

Complainants complain that the judge made the following erroneous and/or improper decisions or procedural rulings during a sentencing hearing in 2006.

under Rule 6 to the judicial council of another circuit.” Guide to Judiciary Policy, Vol. 2E, Ch. 3, at 55.

³ *Id.*

- The judge’s finding that the Government’s “false” and “baseless” information that Prisoner-Complainant had physically assaulted and threatened his Co-Defendant (his wife) to be credible, reliable, and relevant was “an abuse of discretion” and “displayed a disturbing lack of impartiality and professionalism by sensualizing [sic] the case and relying on false allegations of female [sic] domestic violence.”
- The judge “strategically used the issue of domestic violence as a red herring to divert attention from the fact that she was sentencing [Prisoner-Complainant] under an incorrect legal provision.”
- The judge “justified” sentencing Prisoner-Complainant to life imprisonment “solely on the basis of unfounded allegations of domestic violence,” thereby demonstrating a “tendency to view all individuals accused of drug crimes through a negative lens, assuming guilt or imposing harsher penalties based on personal beliefs rather than legal standards.”
- The judge failed to consider that Prisoner-Complainant was “a young at-risk Hispanic man involved in Cannabis trafficking,” and the judge thereby “missed an opportunity to address the root causes of the problem and provide meaningful support and intervention.”

Complainants further allege that the judge demonstrated a lack of “fairness and humanity” in denying Prisoner-Complainant’s post-conviction motion for compassionate release and his motion for reconsideration. They also assert that the judge violated Rule 4(a)(2)(B)⁴ by construing a document Prisoner-Complainant mailed to the district court as

⁴ Rule 4(a)(2)(B) provides that cognizable misconduct includes “treating litigants, attorneys, judicial employees, or others in a demonstrably egregious and hostile manner[.]” Guide to Judiciary Policy, Vol. 2E, Ch. 3, at 7.

Defendant's conduct based on the evidence before her, and those opinions were reflected in the remarks at issue. Therefore, the allegation that those remarks were prejudicial, improper, or violated the Code of Conduct for United States Judges is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as "lacking sufficient evidence to support a finding of judicial misconduct."

— *Remarks about Prisoner-Complainant's conduct in the courtroom*

During the sentencing hearing, the judge admonished Prisoner-Complainant for his conduct in the courtroom. Complainants allege that the judge's remarks "created an atmosphere of fear and coercion" in violation of her duty under Canon 3 to treat all parties "with dignity and respect."

The Supreme Court has held that judicial bias is not established by a judge's "expressions of impatience, dissatisfaction, annoyance, and even anger, that are within the bounds of what imperfect men and women, even after having been confirmed as federal judges, sometimes display. A judge's ordinary efforts at courtroom administration—even a stern and short-tempered judge's ordinary efforts at courtroom administration—remain immune." *Liteky*, 510 U.S. 540, 555-56. Moreover, as provided by Judicial Conference Committee on Codes of Conduct, Advisory Opinion 66, June 2009: "Strongly stated judicial views rooted in the record, a stern and short-tempered judge's efforts at court administration, expressions of impatience, dissatisfaction, annoyance and even anger directed to an attorney or a party should not be confused with judicial bias."⁶

The judge's comments are entirely consistent with the permissible efforts at courtroom administration described in *Liteky*. Hence, the allegation that the judge improperly and prejudicially admonished Prisoner-Complainant for his conduct in the courtroom is subject to dismissal under

⁶ Guide to Judiciary Policy, Vol. 2B, Ch. 2, at 95.

28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to support a finding of judicial misconduct.”

— *Remarks about Prisoner-Complainant’s supervised release conditions*

Complainants complain that the prior to imposing “a life sentence, without the possibility of parole,” the judge “deceitfully” and “cruelly” gave Prisoner-Complainant “false hope” by making statements that indicated he might be released and placed on supervised release at some point in the future. Complainants submit that “by misleading [Prisoner-Complainant] in such a callous manner,” the judge engaged in “grave abuse of judicial power” and displayed “a lack of competency or attention to detail which can erode public trust ... rais[ing] ethical and legal concerns about the responsibilities of judicial authorities.”

Contrary to this claim, the transcript indicates that the remarks at issue were made *after* the judge imposed the life sentence. Regardless, even if the comments were made before the judge imposed the sentence, they do not constitute misconduct or incompetence, and the allegations are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to support a finding of judicial misconduct.”

— *Remarks about Congress and drug laws*

During the sentencing hearing, the Government argued that Prisoner-Complainant took advantage of a witness’s diminished intellectual capacity and tricked him into be involved in drug trafficking, and therefore the witness was entitled to restitution as “a victim” of Prisoner-Complainant’s criminal conduct. The judge rejected the argument, finding that the witness was not “a victim” under the relevant statute. Later the judge remarked that she disagreed with the United States Congress’s designating drug trafficking as “a victimless crime,” but noted that was the law.

Complainants contend that the judge's statement "expressed contempt for Congress and gave her personal views on Cannabis distribution."

The judge's comment expressed neither contempt for Congress nor an improper "personal view," and this allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) and Rules 11(c)(1)(A) and (D).

— *Extrajudicial remarks*

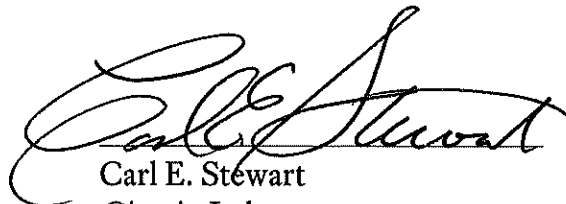
The judge participated in an online podcast in which she answered questions about her experiences as woman working in the legal profession, including addressing why she became an attorney, her legal career prior to becoming a federal judge, work-life balance, and the importance of mentors.

Complainants assert that the judge made "disparaging" comments "suggest[ing] that all men in or near the legal profession harass women or treat them based solely on their physical appearance" and "reinforc[ing] traditional gender roles and stereotypes, portraying men and women as inherently opposed or having conflicting interests." They further submit that "no objective observer or 'reasonable mind' could conclude after hearing [the] podcast that [the judge] is 'impartial' on cases involving drugs, men, or domestic violence." They also allege that the judge violated Canon 4 by using her "judicial position to influence [sic] her personal agenda [which] harms the efficient administration of justice and the public's perception of the judiciary."

After reviewing the audio recording of the interview, I conclude that the judge's comments are not evidence of prejudice against men generally or in cases involving "drugs, men, or domestic violence," or in Prisoner-Complainant's cases specifically, and do not otherwise undermine public confidence in the impartiality of the judiciary. Therefore, this aspect of the complaint 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.”

An order dismissing the complaint is entered simultaneously herewith.



Carl E. Stewart
Circuit Judge

**Judicial Council
for the Fifth Circuit**

Complaint Number: 05-25-90034

United States Court of Appeals
Fifth Circuit

FILED

June 17, 2025

Lyle W. Cayce
Clerk

IN RE COMPLAINT OF [REDACTED]
[REDACTED] AGAINST
[REDACTED]
[REDACTED]

UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

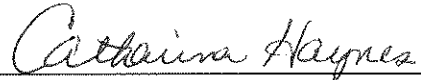
ORDER

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 Judge Carl E. Stewart, filed April 3, 2025, dismissing the Complaint of [REDACTED]

[REDACTED] against [REDACTED]

[REDACTED] under the Judicial Improvements Act of 2002.

The order is therefore AFFIRMED.



Catharina Haynes
United States Circuit Judge
For the Judicial Council of the Fifth Circuit