

Judicial Council for the Fifth Circuit

United States Court of Appeals

Fifth Circuit

FILED

April 15, 2025

Lyle W. Cayce
Clerk

Complaint Number: 05-25-90040

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 District Judge in a civil proceeding.

A review of the underlying docket shows that the judge granted the defendant's motion to stay discovery pending a ruling on the defendant's Rule 12(b)(6) motion to dismiss. Complainant filed a motion to release or transfer her case to a county court. Six months later, the judge granted the defendant's motion to dismiss without prejudice to Complainant refiling her state law claims in the county court. The judge denied as moot Complainant's motion to release or transfer the case to the state court.

Complainant complains that "stay discovery should have only 21 to 31 days (with extended request). The instruction in this court is not being honest with there [sic] communications." Repeating allegations made in a prior complaint, Complainant further complains that the judge had "trouble" understanding the "Mental Health," "Mental Impairment," and "Cognitive Decline" terms and issues raised in her lawsuit.

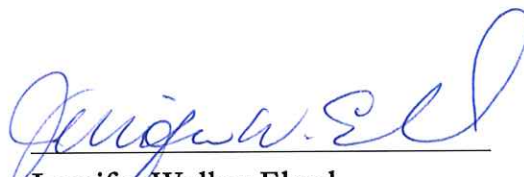
These allegations relate directly to the merits of decisions or procedural rulings and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). Judicial misconduct proceedings are not a substitute for

the normal appellate review process, nor may they be used to obtain reversal of a decision or a new trial.

Complainant's additional assertion that the judge should have "resolved" the case "so that I could file without problem in the lower district court" is construed an allegation of undue delay in ruling on Complainant's motion to transfer the case to the county court. As provided by Rule 4(b)(2) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings, "[c]ognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases." To the extent that Complainant alleges improper motive, the allegation is entirely conclusory. Therefore, this aspect of the complaint is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as "lacking sufficient evidence that misconduct has occurred."

This is the third merits-related complaint filed by Complainant in less than eight months and Complainant repeats allegations reviewed and dismissed in a prior complaint. This is an abuse of the complaint process. Complainant is WARNED that should she file a further merits-related, conclusory, frivolous, or repetitive complaint, her right to file complaints may be suspended and, unless she is able to show cause why she 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.


Jennifer Walker Elrod
Chief Circuit Judge

Lyle W. Cayce
Clerk

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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