

FILED

September 10, 2025

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-25-90066

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

ORDER

Complainant alleges that a United States District Judge committed misconduct by failing to recuse himself from certain proceedings in the light of the judge's charitable donations to certain organizations associated with a party.

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

Complainant alleges that the subject judge's failure to recuse "violated at least eight sections of the Federal Judicial Code of Conduct" and seeks to have the subject removed from the proceedings and "placed on administrative leave so that the Council can impose all penalties that are equitable and just." The subject judge recused himself from the proceedings shortly after Complainant submitted his complaint to this court.

Rule 4(b)(1) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings states: "Cognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling, including a failure to recuse." However, "[i]f the decision or ruling is alleged to be the result of

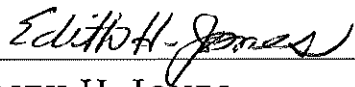
an improper motive, e.g., a bribe, ex parte contact, racial or ethnic bias, or improper conduct,” then the claim is cognizable. *Id.*

On this issue, the Breyer Committee Report similarly states: “A mere allegation that a judge should have recused is indeed merits-related; the proper recourse is for a party to file a motion to recuse.” *Report on the Implementation of the Judicial Conduct and Disability Act of 1980: a report to the Chief Justice*, The Judicial Conduct and Disability Act Study Committee (September 2006), at 146. The report further provides that “[t]he very different allegation that the judge failed to recuse for illicit reasons—i.e., not that the judge erred in not recusing, but that the judge knew he should recuse but deliberately failed to do so for illicit purposes—is not merits-related. Such allegations are almost always dismissed for lack of factual substantiation.” *Id.*

Complainant does not allege or provide any evidence that the subject judge deliberately failed to recuse himself earlier from the proceedings for an illicit purposes or with an improper motive.¹ Therefore, the allegation that the subject judge engaged in misconduct by failing to recuse himself earlier must be dismissed under 28 U.S.C. § 352(b)(1)(A)(ii) as “directly related to the merits of a decision or procedural ruling” and/or 28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference that misconduct has occurred.” Judicial misconduct proceedings are not a substitute for the normal appellate review process and may not be used to obtain reversal of a decision or a new trial.

¹ To the contrary, the subject judge requested an advisory opinion from the Judicial Conference of the United States’ Committee on the Codes of Judicial Conduct prior to recusing himself.

An order dismissing the complaint is entered simultaneously herewith.



EDITH H. JONES
Circuit Judge