

FILED

December 29, 2025

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-26-90033

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

ORDER

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

On May 1, 2025, Complainant’s attorney filed a motion to withdraw. Complainant states that she also filed a Notice of Pro Se Representation on May 1, 2025, which “gave the Court including [the magistrate judge] actual, constructive, and legal notice that Complainant was now representing herself pro se.”¹ On May 2, 2025, the court scheduled a telephonic hearing on the motion to withdraw for 2:30 PM the same day. Complainant complains that neither counsel nor chambers notified her—the pro se plaintiff— of the hearing, she was not invited to attend, and the hearing was held without her participation. Complainant contends her exclusion “was not a scheduling error or harmless oversight,” and that by holding the hearing in her absence, the magistrate judge engaged in improper ex parte communication with counsel for the defendant. Complainant submits that the magistrate judge’s conduct violated: Canons 2 and 3(A)(4) of the Code of Conduct for United States Judges by “creat[ing] the appearance of unequal treatment and

¹ Contrary to Complainant’s assertion, her Notice of Pro Se Representation was dated May 2, 2025.

favoritism toward represented parties”;² mandatory notice and conference participation provisions of the Federal Rules of Civil Procedure and the court’s Local Rules; and Complainant’s Fifth Amendment right to due process.

To the extent these allegations relate directly to merits of decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). The complaint procedures in 28 U.S.C. §§ 351-364 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.

The conclusory assertion that the magistrate judge intentionally failed to provide Complainant notice and opportunity to be heard at the May 2, 2025 hearing because he is biased against pro se litigants 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.” The allegation that the magistrate judge engaged in improper ex parte communication 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.” At the time of the hearing, Complainant’s attorney’s motion to withdraw had not yet been granted.³ Complainant was therefore still represented by counsel during the hearing and counsel for both sides participated in the hearing.

Complainant further complains that the magistrate judge reset the settlement conference “multiple times” and that the related scheduling notices included “repeated instructions about in-person attendance and confidential memoranda to chambers.” Complainant asserts that the

² Canon 2 provides that “[a] judge should avoid impropriety and the appearance of impropriety in all activities.” Canon 3(A)(4) provides: “... a judge should not initiate, permit, or consider ex parte communications ... concerning a pending or impending matter that are made outside the presence of the parties or their lawyers.” *See* Guide to Judiciary Policy, Vol. 2A, Ch. 2.

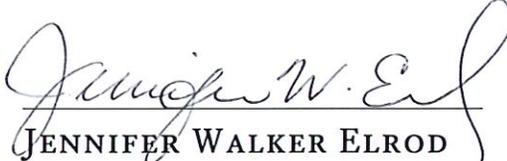
³ A review of the record reflects that a second attorney listed as co-counsel for Complainant filed a motion to withdraw on May 21, 2025, notifying the court that he had left the law firm in November 2024.

magistrate judge thereby imposed “undue administrative burdens on a pro se litigant” and “appear[ed] to privilege the convenience of defense counsel.”

Complainant does not explain how resetting the conference or the magistrate judge’s requirements for the parties to file position statements and attend the conference in person “privilege[d] the convenience of defense counsel.” The conclusory allegations of bias in favor of the defendant/defense counsel and “undue administrative burdens on a pro se litigant” are 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.”

Complainant also complains that during a settlement conference, the magistrate judge engaged in “coercive or unfair settlement practices. ... [I] perceived [his] approach to be overly insistent on settlement and insensitive to [my] pro se status, thereby creating an appearance of partiality.” Complainant provides no examples of the alleged coercion or unfairness, and the audio recording of the beginning of the conference reflects that the magistrate judge advised the parties that the decision to settle was entirely their own and that his discussions during the settlement conference of the issues in the case did not reflect his opinion on the issues.⁴ This 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.”

The complaint is DISMISSED. An unredacted private order is entered simultaneously herewith.


JENNIFER WALKER ELROD
Chief Judge

⁴ Only the introductory joint session of the settlement conference was recorded.