

**FILED**

February 12, 2026

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Numbers: 05-26-90079 and 05-26-90080

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

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## ORDER

Complainant, a civil litigant, has filed a complaint alleging misconduct by two United States Circuit Judges (hereinafter referred to as “Judge A” and “Judge B”) in Complainant’s interlocutory appeal.<sup>1</sup> Pursuant to Rule 25(f) of the Rules for Judicial-Conduct and Disability Proceedings, this matter has been assigned to me for consideration.

Complainant complains that Judge A violated Canons 1, 2, 3(A)(4), and 3(C)(1) of the Code of Conduct for United States Judges.<sup>2</sup> For example, Judge A failed to recuse himself sua sponte from serving on an appeal

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<sup>1</sup> Another United States Circuit Judge (“Judge C”) also served on the merits panel and, following Judge B’s recusal, the matter proceeded before the quorum of Judges A and C. The analysis and dismissal of Complainant’s allegations aimed at Judge A regarding errors and bias in the per curiam opinion would—had he been named as a subject of the complaint—also apply to Judge C.

<sup>2</sup> Canon 1 provides: “A judge should uphold the integrity and independence of the judiciary.” Canon 2 provides: “A judge should avoid impropriety and the appearance of impropriety in all activities. Canon 3(A)(4) provides: “A judge should accord to every person who has a legal interest in a proceeding, and that person’s lawyer, the full right to be heard according to law.” Canon 3(C)(1) provides: “A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned[.]” *See* Guide to Judiciary Policy, Vol. 2A, Ch. 2.

challenging the decisions of a United States District Judge who previously served as Judge A's law clerk when Judge A was a state court judge.

Canon 3(C)(1) provides that “a judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned[.]”<sup>3</sup> The Canon sets forth examples of relationships and circumstances that would be cause for disqualification in a case, e.g., the judge is required to disqualify if their spouse, or child, or a person related within the third degree of relationship, or a lawyer with whom the judge previously practiced law are parties, witnesses, or counsel in a proceeding, or have an interest that could be substantially affected by the outcome of a proceeding. The examples are non-exhaustive, and it is reasonable to expect a judge to consider whether he or she could be impartial if a former law clerk appeared before them or, as in this case, was the district judge whose decisions were being reviewed.

The Ethics Deskbook for United States Judges addresses the issue of whether a judge must recuse in a case involving of a former law clerk as follows:

Although there is no bright-line rule applicable to former clerks, due to Canon 2A and Canon 3C(1) concerns there should be a “reasonable period of time” before a former clerk can appear before a former employer-judge. Although the length of time for recusal is left to the discretion of each judge, most judges opt for a one- or two-year recusal period.<sup>4</sup>

The underlying interlocutory appeal was filed almost two decades after the district judge’s clerkship with Judge A ended. Under these circumstances, the district judge’s clerkship, without more, does not implicate Canons 2A or 3(C)(1). Because Complainant alleges the clerkship

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<sup>3</sup> Guide to Judiciary Policy, Vol. 2A, Ch. 2, at 7.

<sup>4</sup> Ethics Deskbook for United States Judges, 45, (Christopher C. Conner et al. eds., 1st ed., 2020).

alone as his basis for misconduct, he has not produced evidence that Judge A violated Canons 2A or 3(C)(1) by failing to recuse.

To the extent that the allegation relates directly to the merits of Judge A's decision not to disqualify himself *sua sponte*, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). The complaint procedures in 28 U.S.C. §§ 351-364 may not be used to challenge the correctness of a judge's ruling or decision. *See* Rule 4(b)(1) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Any allegation that Judge A failed to recuse for an improper motive 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."

Complainant further complains that in violation of Canons 1, 2 and 3(A)(4), and in violation of Complainant's due process rights, Judge A:

- Improperly entertained an *amicus curiae* brief ("amicus brief") filed "a vacated receiver and his co-authors," without the leave of the court and without the parties' consent, in violation of Federal Rule of Appellate Procedure 29.
- The "co-authors" of the amicus brief—Attorney X and Attorney Y acting as counsel for the receiver—are "former clerks of [the district judge],"<sup>5</sup> which gave rise to "a conflict of interest and potential for undue influence on the [appellate] process" because "it lacked neutrality and independence."
- Despite the United States ("the government") "expressly instruct[ing] the district court to stay proceeding, . . . [the

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<sup>5</sup> According to the attorneys' linkedin.com and law firm website entries, Attorney Y served as a judicial intern to the district judge for four months in 2020, whereas Attorney X has not served as the district judge's law clerk.

district judge] permitted post-stay filings by the receiver,” and “instead of rejecting these [improper] filings,” Judge A “used them as the basis for extrajudicial fact-finding.” Judge A’s failure to refer to “the existence, timing, or binding legal effect of the stay . . . rendered the opinion jurisdictionally defective and procedurally flawed.”

- Judge A “adopt[ed] false, discredited allegations from [the amicus brief], . . . directly repeat[ing] its language [and] drawing multiple slanderous and false conclusions about me which had not been litigated, presented to the panel, mandated, or subject to any adversarial testing.” For example, Judge A repeated “one of the most inflammatory accusations” made by the receiver even though accusation had been “voluntarily invalidated and dismissed,” and “escalated the falsehood by fabricating a timeline not even claimed by the receiver. . . . This was not a judicial interpretation—it was a judicial invention.”
- Judge A went far beyond what the record supported, issuing sweeping factual conclusions about fraud, deception and control of LLCs[,] . . . insert[ing] findings that no lower court had made.”
- “Judge A’s opinion appears crafted to vindicate the actions of a former clerk of the district judge who co-authored the amicus [brief].”
- “The final blow came with the astonishingly swift denial of my en banc rehearing petition, . . . foreclosing my right to be heard by a full and impartial panel.”

- These decisions and conduct prove Judge A’s “bias and his determination to justify . . . that the district judge was correct in appointing a receiver.”

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 assertions of bias and improper motive are 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.” Adverse opinions alone do not constitute evidence of bias. *See Liteky v. United States*, 510 U.S. 540, 555 (1994).

Complainant also complains that due to Judge A’s presentation of “false, discredited allegations . . . as established facts, . . . [t]he public record now reflects judicial declarations of guilt absent a trial—precisely what the Fifth and Fourteenth Amendments prohibit.” Complainant asserts that this conduct constituted impermissible public commentary under Canon 3(A)(6), which provides: “A judge should not make public comment on the merits of a matter pending or impending in any court.”

However, Canon 3(A)(6) further provides that “[t]he prohibition on public comment on the merits does not extend to public statements made in the course of the judge’s official duties.” The published opinion was entered in the course of Judge A’s official duties. This allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as frivolous and/or as “lacking sufficient evidence to raise an inference that misconduct has occurred.”

The record reflects that Judge B recused himself four days before the scheduled oral argument hearing, and the case proceeded before a quorum of Judges A and C. Complainant complains that Judge B did not “provid[e] any reason or explanation to the parties.” Noting that he “was not offered any procedural remedy—no opportunity to request a replacement judge, no chance to re-brief or reschedule, and no explanation for why this recusal came

at such a critical stage,” Complainant further complains that Judge B’s “maneuvering—whether intentional or recklessly indifferent”: resulted in the appeal proceeding before “only two judges”; “left [Judge A] free to effectively defend the rulings of his former clerk”; “lent the impression that judicial loyalties had overtaken judicial fairness”; and might have been “designed to insulate [Judge A] from scrutiny or criticism tied to his prior relationship with [the district judge].”

To the extent that these allegations relate directly to the merits of Judge B’s decision to recuse himself, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). The conclusory assertion of improper motive 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 complaint is DISMISSED. An unredacted private order is entered simultaneously herewith.



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PRISCILLA RICHMAN  
*Circuit Judge*

**FILED**

May 13, 2026

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Numbers: 05-26-90079 and 05-26-90080

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IN RE COMPLAINT OF [REDACTED] AGAINST  
[REDACTED]

UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

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## 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 Priscilla Richman, filed February 12, 2026, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The order is therefore AFFIRMED.



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