

United States Court of Appeals
for the Fifth Circuit

No. 25-50864

United States Court of Appeals
Fifth Circuit

FILED

October 2, 2026

Thomas B. Plunkett, III
Clerk

PITTSBURGH LOGISTICS SYSTEMS, INCORPORATED,

Plaintiff—Appellant/Cross-Appellee,

versus

GLEN ROSE TRANSPORTATION MANAGEMENT,

Defendant—Appellee/Cross-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:20-CV-1173

Before STEWART, HIGGINSON, and HO, *Circuit Judges*.

PER CURIAM:

Pittsburgh Logistics Systems appeals a final judgment dismissing its claims of unjust enrichment and misappropriation under the Texas Uniform Trade Secrets Act and the Defend Trade Secrets Act, after a jury returned a verdict in favor of Glen Rose Transportation Management. It also appeals the denial of its motion to amend judgment under Federal Rule of Civil Procedure 59(e). Glen Rose filed a cross-appeal arguing that the district court abused its discretion by failing to rule on its pending motion for costs. We AFFIRM the judgment and the denial of the Rule 59 motion. We DISMISS the cross-appeal.

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PLS argues that the trial court committed an abuse of discretion in allowing certain testimony, citing to three different exchanges in the trial transcript. We apply the deferential abuse of discretion standard when reviewing a district court's evidentiary rulings. *See Williams v. Manitowoc Cranes, L.L.C.*, 898 F.3d 607, 615 (5th Cir. 2018) ("A district court abuses its discretion when its ruling is based on an erroneous view of the law or a clearly erroneous assessment of the evidence." (quoting *Heinsohn v. Carabin & Shaw, P.C.*, 832 F.3d 224, 233 (5th Cir. 2016))). "The party asserting the error has the burden of proving that the error was prejudicial." *Id.* (quoting *Ball v. LeBlanc*, 792 F.3d 584, 591 (5th Cir. 2015)). PLS fails to explain how it was prejudiced by this testimony, and so it cannot show an abuse of discretion. This is particularly true for PLS's primary objection that the jury heard testimony that PLS's customer lists were not trade secrets. It is undisputed that the jury was instructed oppositely: "Plaintiff's customer lists are Plaintiff's trade secrets." We therefore AFFIRM the judgment dismissing PLS's claims.

PLS also argues that the denial of its Rule 59(e) motion was reversible error. Denials of motions to alter or amend a judgment under Rule 59(e) are also reviewed for abuse of discretion. *Rollins v. Home Depot USA*, 8 F.4th 393, 396 (5th Cir. 2021). "[A]fter a jury trial," Rule 59 authorizes courts to grant motions for new trials "for any reason for which a new trial has heretofore been granted in an action at law in federal court." FED. R. CIV. P. 59(a)(1); *see Wantou v. Wal-Mart Stores Tex., L.L.C.*, 23 F.4th 422, 431 (5th Cir. 2022). To succeed, "[a] motion to alter or amend the judgment under Rule 59(e) must clearly establish either a manifest error of law or fact or must present newly discovered evidence and cannot be used to raise arguments which could, and should, have been made before the judgment issued." *In re Life Partners Holdings, Inc.*, 926 F.3d 103, 128 (5th Cir. 2019) (quoting *Schiller v. Physicians Res. Grp. Inc.*, 342 F.3d 563, 567 (5th Cir. 2003)).

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When reviewing a jury's conclusions, "we are bound to view the evidence and all reasonable inferences in the light most favorable to the jury's determination." *Rideau v. Parkem Indus. Servs., Inc.*, 917 F.2d 892, 897 (5th Cir. 1990). We defer to jury verdicts and interpret them "most favorabl[y] to upholding the jury's decision by a finding of consistency." *Merritt Hawkins & Assocs., L.L.C. v. Gresham*, 861 F.3d 143, 154 (5th Cir. 2017). We will reverse the denial of a Rule 59(e) motion "only when there is an absolute absence of evidence to support the jury's verdict." *Williams*, 898 F.3d at 614 (quoting *OneBeacon Ins. Co. v. T. Wade Welch & Assocs.*, 841 F.3d 669, 676 (5th Cir. 2016)).

PLS fails to provide any record support for its argument that the trial court committed an abuse of discretion in denying the Rule 59(e) motion, presented to the district court as "the jury just got it wrong," and then to us, unpersuasively, inter alia, also as unobjected-to instructional error. PLS cannot prevail with this argument.¹ The order denying the Rule 59(e) motion is AFFIRMED.

Finally, Glen Rose asserts on a cross-appeal that the trial court erred in failing to rule on its motion for costs. Because no order below grants or denies costs, there is no appealable order for us to review. "Federal courts of appeals are empowered to review only 'final decisions of the district

¹ Ex-parte, in camera meetings with a party are strongly disfavored and often reversible error, however well-intentioned, here focused on admonishing a party about unacceptable communications with the court's staff. See 28 U.S.C. § 753. Upon PLS's motion for clarification, however, the court promptly disclosed all contents of the admonition into the record, disclosing it to both parties, and we see no reversible error nor that the administrative matter addressed touched on the substantive merits of the case, particularly where PLS admitted at oral argument that it knew the court was going to conduct the ex-parte conference in advance, and it did not object.

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courts.’” *Microsoft Corp. v. Baker*, 582 U.S. 23, 27 (2017) (quoting 28 U.S.C. § 1291). The cross-appeal is DISMISSED.

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JAMES C. HO, *Circuit Judge*, concurring:

I concur. I write separately to address Plaintiff’s understandable objections to the magistrate judge’s ex parte meeting with Defendant. After all, ex parte meetings are “strongly disfavored” and “often reversible error,” as our court rightly observes today. *Ante*, at 3 n.1.

I get why the magistrate judge felt compelled to engage in an ex parte dialogue, after he received a series of unusual emails from Defendant’s corporate representative. It’s no fun being criticized for one’s life’s work.

But “[h]olding office in America is not for the faint of heart.” *Wilson v. Houston Community College System*, 966 F.3d 341, 345 (5th Cir. 2020) (Ho, J., dissenting from the denial of rehearing en banc). “With leadership comes criticism—whether from citizens of public spirit or personal malice.” *Id.*

I.

Defendant’s corporate representative sent a series of ex parte emails to the magistrate judge. The emails expressed frustration with perceived excessive and unnecessary delays in the judge’s resolution of the case.

One of those emails referenced the fact that “I have many friends who are . . . Texas congressmen, US representatives, and one close U.S. Senator,” and that the corporate representative was “consider[ing] asking my Texas friends to write to you and ask why I have to continue waiting.”

The email was sent at a time when it was publicly known and reported by the media that the judge was actively being considered and promoted in certain circles for appointment to the district court.

So the message—intended or not—was an indictment on the judge’s honor. It was effectively an accusation—fair or unfair—that the judge might be willing to use his rulings to further his own personal career ambitions.

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In response, the magistrate judge held an ex parte meeting with Defendant's corporate representative.

II.

Any judge who abuses his office to promote his own interests—including the desire for future appointment—has violated the judicial oath and doesn't belong in his current post, let alone whatever new post he seeks.

There are, to be sure, both honorable and dishonorable people on the bench—just as there are in every other segment of life. Just as there are no doubt those on the bench who have strong ambitions for future office, there are others who are happy to be public servants, but who would be just as happy earning their living by some other means.

For the outside observer, however, it can be difficult to discern which is which.

And therein lies the quandary for the dutiful judge. How should a good judge respond when it's suggested that his exercise of judicial authority might be tainted by his private, personal desire for elevation to another post?

One noted scholar has described this dilemma as “the audition trap.” Josh Blackman, *The Audition Trap*, REASON.COM, Mar. 7, 2025. As Professor Blackman explains, “[a]t bottom, this is a charge of bad faith: that we write what we write not because we think it is the right legal outcome, but that we are using our platforms to seek some higher office.”

He calls it a “trap” because it's a claim that “cannot be refuted.” “Once a person is labeled as an auditioner, *everything* they do will be seen as an attempt to audition. If they act in a moderate fashion, they are doing so to avoid drawing attention, and helping their candidacy. If they act in a radical fashion, they are doing so to draw attention, and help their candidacy. Auditioners are *trapped* in a vicious cycle.” *Id.*

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III.

Professor Blackman’s point is simple, but important. No one has the power to look into another man’s heart and ascertain his actual motivations or ambitions. So the accusation of auditioning is indeed irrefutable. Certain actions may seem like auditioning to some, but to others, it’s simply doing the job as the judge best sees fit.

There’s no solution. So the good judge simply accepts that criticism is a fact of life—and that un rebuttable charges come with the job. The First Amendment guarantees the right of every citizen to criticize public officials—whether the criticism is fair or unfair.

That doesn’t make unjust assaults on one’s honor any easier to accept, of course. No one likes to be booed. It’s not unreasonable that a good judge might care about his reputation for fairness, neutrality, and integrity. But caring deeply is the cost of admission to a meaningful and textured life. *See* Brad Stulberg, *THE WAY OF EXCELLENCE* 65–76 (2026).

Public criticism is not for everyone. But if it’s too much to take, you can always resign. Federal judges receive life tenure—not a life sentence.

IV.

I have no reason to doubt the sincerity of Defendant’s corporate representative. Delays in the justice system are real, commonplace, and frustrating. *See, e.g., Ayestas v. Harris County District Attorney’s Office*, 180 F.4th 776, 778 (5th Cir. 2026) (Smith, J., dissenting from the order granting rehearing en banc) (“Justice delayed is justice denied.”) (quoting *Env’t Tex. Citizen Lobby, Inc. v. ExxonMobil Corp.*, 123 F.4th 309, 310 (5th Cir. 2024)).

Nor do I have reason to doubt the sincerity of the magistrate judge. Frustrating too is the irrefutable accusation that one’s rulings are hopelessly tainted by personal ambition.

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But here, the magistrate judge chose to vent that frustration at an ex parte meeting with Defendant. On a human level, I can sympathize. But I wouldn't have counseled such a response.

At the end of the day, the only thing a good judge can do is articulate the governing principles that decide the case, and endeavor to apply those principles consistently in all such cases, without fear or favor or regard to personal consequences. And then just let his record over time speak for itself.

* * *

“Those who seek office should not just expect criticism, but embrace it. Tough scrutiny is not a bug, but a defining feature of our constitutional structure. In America, we trust our citizens to determine for themselves what is right—and to count on vigorous, unrelenting debate to guide them.” *Wilson*, 966 F.3d at 345 (Ho, J., dissenting from the denial of rehearing en banc).

I concur.