

JUN 17 2020

FIFTH CIRCUIT
LYLE W. GAYCE, CLERKJUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT

Complaint Number: 05-20-90112

M E M O R A N D U M

Complainant, a civil litigant, alleges that the subject United States Circuit Judge failed to rule promptly on complainant's complaint of judicial misconduct against a United States Magistrate Judge. He further asserts that the circuit judge's delay in ruling on his complaint "give[s] the appearance of covering up [the magistrate judge's] criminal acts." Based on his presumption that the circuit judge would have ordered the magistrate judge to recuse, complainant also submits that the delay was prejudicial to him because his attorney withdrew from the case "to get away from the abusive magistrate judge."¹

To the extent that complainant complains about undue delay in rendering a decision, such delay, in and of itself, does not constitute evidence of judicial misconduct, and this aspect of the complaint is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii). *See* Rule 4(b)(2) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings.

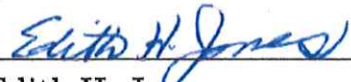
In other respects, the conclusory assertion that the circuit judge intentionally and prejudicially delayed ruling on the complaint to "cover up" the magistrate judge's purported misconduct lacks sufficient evidence to

¹ A review of the motion indicates that counsel cited difficulties with his client as the basis for seeking to withdraw.

raise an inference that misconduct has occurred, and is therefore also subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).²

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.

An order dismissing the complaint is entered simultaneously herewith.



Edith H. Jones
Circuit Judge

6/15, 2020

² Complainant appears to claim that the presiding United States District Judge improperly granted counsel's motion to seal the motion to withdraw in order to conceal the magistrate judge's criminal conduct and "requirement to recuse herself." If complainant had named the district judge as a subject of the complaint, this allegation would be subject to dismissal as merits-related and conclusory under 28 U.S.C. §§ 352(b)(1)(A)(ii) and (iii).

FILED

September 10, 2020

Lyle W. Cayce
Clerk

**Before the Judicial Council
of the Fifth Circuit**

No. 05-20-90112

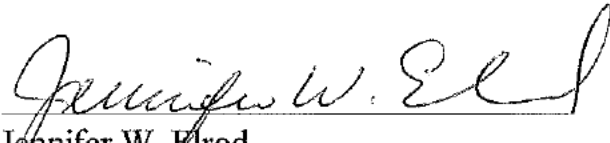
Petition for Review by [REDACTED]
of the Final Order Filed June 17, 2020,
Dismissing Judicial Misconduct Complaint
Against [REDACTED]
Under the Judicial Improvements Act of 2002.

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 Edith H. Jones, filed June 17, 2020, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

Sept. 5, 2020
Date


Jennifer W. Erod
United States Circuit Judge
For the Judicial Council of the Fifth Circuit