

**FILED**

January 10, 2022

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

---

Complaint Number: 05-22-90002

---

## MEMORANDUM

Complainant, a pro se litigant, asserts that because the parties did not consent to proceed before a magistrate judge in the underlying civil matter, the subject United States Magistrate Judge has engaged in “a big prevarication and misrepresentation of the law . . . overstepping her limited prerogative jurisdictional power authority” by entering orders.

A litigant has no right to object to the assignment of nondispositive matters to a magistrate judge under 28 U.S.C. § 636(b). *See Jackson v. Cain*, 864 F.2d 1235, 1247 (5th Cir. 1989). The allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant further protests that in an order entered in August 2021, the magistrate judge “arbitrarily acted with bias and animus causal against [me] as a pro se [litigant] and using stereotype words . . . like *vexatious* and menacing [me] for [sic] sanctions.” He appears to be referring to the magistrate judge’s statement that, pursuant to FED. R. EVID. 201, the court would take judicial notice of complainant’s three prior lawsuits against the defendant and, in particular, a warning entered in the third case “regarding [complainant’s] vexatious litigation tactics” and which admonished complainant that he would be subject to “severe sanctions” if he filed further litigation against the defendant arising out of the same underlying facts. The magistrate judge cautioned complainant that she would not hesitate to

recommend the imposition of severe sanctions if she determined that the instant lawsuit was based on the same facts.

Complainant also objects that the magistrate judge denied without prejudice his Motions for Judicial Notice because he had failed to serve those notices on the defendant, and “continued her willful systematic pathway of arbitrary and abuse of discretion actions and acting as a long arm Attorney of the Defendant’s Attorneys” by denying complainant’s motions challenging the granting of defense counsel’s application for pro hac vice admission.

In addition, complainant contends that the magistrate judge improperly and prejudicially enjoined him from filing any further motions, pleadings, notices, or submissions until the Court had issued findings and a recommendation on the Defendant’s motion to dismiss. He further implies that the magistrate judge demonstrated bias in favor of the defendant because a “grand part” of her orders “is a rubberstamped copy of the Defendant’s Attorney’s text language statements.”

To the extent that these allegations relate directly to the merits of merits of decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegations of bias and animus against complainant and bias in favor of the defendant appear entirely derivative of the merits-related charges, but to the extent the allegations are separate, they are wholly unsupported, and 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.”

Finally, complainant submits that the magistrate judge, “a former real estate attorney,” is not competent to enter rulings in an “at will private employment dispute” under the Surface Transportation Assistance Act and which involves alleged violations of the Constitution of the United States.

To the extent, if any, that this allegation relates directly to the merits of the magistrate judge’s decisions or procedural rulings, it is subject to

dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, such a conclusory assertion is subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii).

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.



---

Priscilla R. Owen  
Chief United States Circuit Judge

January 4, 2022

**FILED**

February 1, 2022

Lyle W. Cayce  
Clerk

# Before the Judicial Council of the Fifth Circuit

---

No. 05-22-90002

Petition for Review by [REDACTED]  
of the Final Order Filed January 10, 2022,  
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 Chief Judge Priscilla R. Owen, filed January 10, 2022, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

January 28, 2022  
Date

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