

FILED

June 15, 2026

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-26-90123

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

ORDER

Complainant, a federal prisoner, has filed a complaint alleging misconduct by a United States District Judge¹ in a criminal proceeding.²

Request to transfer complaint to another circuit

On his complaint form, Complainant states that he drafted a transfer request for another individual who filed a complaint with similar allegations against the judge.³ It is unclear whether Complainant is requesting a transfer of his own complaint or referring to the transfer request in the other individual's complaint, which was addressed in the order disposing of that

¹ On his initial complaint form, Complainant identified the district judge as the sole subject of the complaint. However, in the accompanying statement of facts, he appeared to also allege misconduct by three United States Circuit Judges in the direct criminal appeal. In response to the Clerk's request to clarify whether the circuit judges were subjects of the complaint, Complainant confirmed, in writing, that the complaint is against the district judge only.

² Complainant and the defendant were formerly housed in the same federal prison facility.

³ Complainant refers to the request as a "1404 Transfer of Venue," but 28 U.S.C. § 1404 does not apply to judicial misconduct complaints filed pursuant to 28 U.S.C. §§ 351-364.

complaint. To the extent Complainant requests transfer of his own complaint, the request is DENIED.

Rule 26 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings (“JC&D Rules”) provides that “[i]n exceptional circumstances, a chief judge or a judicial council may ask the Chief Justice to transfer a proceeding ... to the judicial council of another circuit.”⁴ The Commentary to JC&D Rule 26 states:

Such transfers may be appropriate, for example, in the case of a serious complaint where there are multiple disqualifications among the original judicial council, where the issues are highly visible and a local disposition may weaken public confidence in the process, where internal tensions arising in the council as a result of the complaint render disposition by a less involved council appropriate, or where a complaint calls into question policies or governance of the home court of appeals.⁵

Complainant submits that the complaint should not be considered by the Judicial Council for the Fifth Circuit because the three circuit judges in the direct criminal appeal displayed “bias” in affirming the district court’s judgment. Only one of the judges who served on that appeal is a member of the 2026 council, and Complainant presents no evidence that the remaining members of the Fifth Circuit Judicial Council cannot be impartial in considering this complaint.

Under these circumstances, I find that there are no exceptional circumstances that warrant a JC&D Rule 26 transfer request: the complaint is not “serious” because as discussed below, the allegations may be dismissed under 28 U.S.C. §§ 352(b)(1)(A)(ii) and (iii); there are no issues of multiple disqualifications among the members of the Judicial Council for the Fifth

⁴ Guide to Judiciary Policy, Vol 2E, Ch. 3, at 61.

⁵ *Id.*

Circuit; the matters raised by the complaint are not highly visible; and a local disposition will not weaken public confidence in the process.

The request to transfer the complaint is DENIED.

Allegations against the district judge

Complainant complains that the judge violated the defendant's Sixth Amendment rights by granting defense counsel's unopposed motion to withdraw "while [the defendant] was on suicide watch" in April 2015, and by granting two other defense counsels' unopposed motion to withdraw during a hearing held in April 2017, allowing them to "quit against [the defendant's] wishes of going to trial with them." Complainant further complains that the judge denied the defendant's motion for compassionate release in January 2025.

These allegations relate directly to the merits of the judge's decisions and procedural rulings and are therefore 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.

Complainant also complains that in an order entered in July 2018, denying the defendant's motion to dismiss Count 1 of the second superseding indictment for lack of a speedy trial, the judge "lied" that the defendant had "hired and fired 9 lawyers." A review of the record reflects that the judge held that the delays from the Government filing two superseding indictments were vastly overshadowed by the number and lengths of the delays caused by the defendant "frequently replac[ing]" defense counsel between August 2012 and June 2018, and that many continuances were made for the benefit of the defendant or his counsel. Complainant provides no evidence and nothing in the record supports his contention that the judge intentionally "lied" in the order. Therefore, this allegation is subject to dismissal under

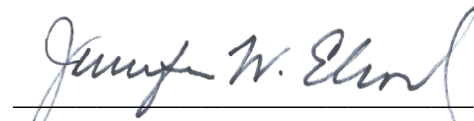
28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference that misconduct has occurred.”

In addition, Complainant complains that the judge sealed the transcript of the hearing held in April 2017 because it proved that the defendant had told the court that he opposed the withdrawals of defense counsel and, if unsealed, the transcript would “expose” the judge’s “lie” in the order entered in July 2018 that the defendant had “hired and fired 9 lawyers.”

Transcripts of hearings on motions to withdraw are routinely sealed to protect attorney-client confidentiality. Complainant presents no evidence in support of his conclusory assertion that the judge sealed the transcript to conceal evidence of a lie. 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.”

Complainant concludes that the judge’s adverse rulings and her “refusal to unseal” the transcript of the hearing on the motion to withdraw constitute evidence of “animus” against the defendant. However, the Supreme Court has held that adverse decisions alone do not constitute evidence of bias. *Liteky v. United States*, 510 U.S. 540, 555 (1994). Complainant’s assertion of animus 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