

United States Court of Appeals
for the Fifth Circuit

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL: (504) 310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

June 10, 2026

Jason Gandy, Reg. # 73006-279
FCI Memphis
Federal Correctional Institution
PO Box 34550
Memphis, TN 38184

RE: Judicial-Conduct Complaint Nos. 05-26-90119 through 05-26-90122

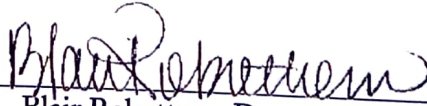
Dear Mr. Gandy:

Please be advised that your complaint against United States Circuit Judges Priscilla Richman and Catharina Haynes, Senior United States District Judge Lee H. Rosenthal and Chief United States District Judge Randy Crane, has been dismissed. A copy of the dismissal order is enclosed.

Procedures for filing a petition for review of the order are set out in Rule 18 of the enclosed Rules For Complaints of Judicial-Conduct and Judicial-Disability Proceedings.

We must receive any petition for review—captioned “Re: Judicial-Conduct Complaint Nos. 05-26-90119 through 05-26-90122”—in the Clerk’s office by no later than **July 22, 2026**. See Rule 18(b).

Sincerely,
LYLE W. CAYCE, Clerk

By 
Blair Robottom, Deputy Clerk

FILED

June 10, 2026

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-26-90119 through 05-26-90122

IN RE COMPLAINT OF JASON GANDY AGAINST
SENIOR UNITED STATES DISTRICT JUDGE LEE H. ROSENTHAL
AND CHIEF UNITED STATES DISTRICT JUDGE RANDY CRANE,
SOUTHERN DISTRICT OF TEXAS, AND
UNITED STATES CIRCUIT JUDGES
PRISCILLA RICHMAN AND CATHARINA HAYNES,
UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

ORDER

Federal prisoner Jason Gandy ("Gandy") has filed a complaint alleging misconduct by Senior United States District Judge Lee H. Rosenthal, Southern District of Texas, in *USA v. Gandy*, USDC No. 4:12-CR-503 (S.D. Tex.), by Chief United States District Judge Randy Crane to whom Gandy wrote a letter about Judge Rosenthal's alleged misconduct, and by United States Circuit Judges Priscilla Richman and Catharina Haynes in *USA v. Gandy*, Fifth Cir. No. 18-20823.¹

¹ Gandy does not allege misconduct by the third member of the panel, former United States Circuit Judge Gregg J. Costa. In his complaint, Gandy states that he learned against a former federal judge. See Rules 1(b) and 8(d) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings ("JC&D Rules"), Guide to Judiciary Policy, Vol 2E, Ch. 3.

Request to transfer complaint to another circuit

Gandy requests transfer of the complaint to the judicial council of another circuit pursuant to Rule 26 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings (“JC&D Rules”), which 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.”² 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.³

Gandy submits that the complaint should not be considered by the Judicial Council for the Fifth Circuit because Judge Rosenthal “is a well-liked and respected colleague” and the Fifth Circuit would “feel broken & lost without her.” In support of this claim, Gandy cites an article published in the *Houston Chronicle* on January 7, 2018, which stated:

Lawyers consistently rate [Judge Rosenthal] among the top jurists in the Houston Bar Association’s annual poll, which grades judges on courtesy, timeliness, impartiality, decisiveness and knowledge of the law. That assessment carries over to the appellate court, where official data shows her rulings are reversed at a significantly lower rate than other

²*Id.*, at 61.

³ *Id.*

trial judges. One high court jurist, Senior Judge Carolyn Dineen King of the 5th U.S. Circuit Court of Appeals, describes [Judge] Rosenthal's rulings as "first rate" and "put together like a Swiss watch." "There's no fat on them, there's also not likely to be any mistakes," she said.⁴

Neither the article nor the statements made therein by Judge King—who is not a member of the 2026 council—constitute evidence that the members of the Fifth Circuit Judicial Council cannot be impartial in considering this complaint. *See* Commentary to JC&D Rule 25(a) (noting that "association with the subject judge as a colleague" alone does not disqualify a judge from participating in complaint proceedings).⁵

Gandy further alleges that "Judge Rosenthal is in charge of making strict rules in the appeals court, some of which in [my] case defeat the purpose of the Judicial Improvements Act of 2002." Gandy appears to be referring to a resolution of 2021 Judicial Council, of which Judge Rosenthal was a member, which revised and readopted Fifth Circuit JC&D Rule 19 that assigns five-member panels to act on petitions for review on behalf of the council pursuant to 28 U.S.C. § 352(d). Judge Rosenthal's two-year term on the council ended on December 31, 2021, and she is not otherwise "in charge of making strict rules in the appeals court."

Gandy also asserts that transfer to another circuit is warranted because in filing the complaint, he "encountered dilatory tactics and delay engineered [by the Clerk] for my continued incarceration and to protect the court's favorite judge." A review of the complaint file reflects that Clerk's Office personnel handled Gandy's complaint in accordance with the JC&D

⁴ Gabrielle Banks, "Federal judge rules with a firm hand; To many, jurist Rosenthal often 'deeply involved,'" <https://www.houstonchronicle.com/news/houston-texas/houston/article/Rosenthal-rules-federal-courts-in-Houston-region-12477177.php> (Jan. 7, 2018).

⁵ Guide to Judiciary Policy, Vol. 2E, Ch. 3, at 59.

Rules and did not delay processing the complaint to protect the judge or continue Gandy's incarceration.

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 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 Judge Rosenthal

— Undue delay in ruling on motions to suppress

Gandy complains that Judge Rosenthal "ignored" his motion to suppress his initial statement filed on April 1, 2013 (Docket No. 34) and his motion to suppress evidence filed on November 26, 2013 (Docket No. 46) "for 4 long years." A review of the record reflects that the delay in ruling on the motions was due to numerous factors, including the following: Gandy retained new counsel multiple times; the court granted numerous defense requests to continue in the interests of justice; the Government filed a superseding indictment; defense counsel moved for a determination of competence; the time required to conduct a competency evaluation and file a report; and the time required to restore Gandy's competency to stand trial.

There is nothing in the record to suggest and Gandy has presented no evidence that the delay in ruling on the motions to suppress was due to a lack of diligence or an improper motive on the part of Judge Rosenthal. 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."

— *Erroneous or improper decisions regarding motions to suppress*

Gandy complains that Judge Rosenthal's decision to "allow" his second motion to suppress evidence to be filed as sealed "ONLY protects the Government." A review of the record reflects that the motion was filed "under seal" by Gandy's counsel.

To the extent that this allegation relates directly to the merits of Judge Rosenthal's implied decision not to unseal the document, 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* JC&D Rule 4(b)(1).

Gandy provides no evidence to support his conclusory assertion that Judge Rosenthal allowed his counsel to file the motions under seal to protect the government. 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."

— *Held "secret hearing" on motions to suppress and improperly held that the motions were moot*

Gandy complains that Judge Rosenthal held a "secret suppression hearing that I was not told about or invited to on 4-3-17," and intentionally ruled that the motions to suppress were moot because "proper consideration would drop my whole case." A review of the record reflects that a motions hearing was set for April 6, 2017, and the setting was terminated on April 3, 2017, "based on the parties' notification that the issue is moot," i.e., in responding to the motions to suppress, the Government stated that it would not move to introduce the statements or evidence at issue unless Gandy gave contrary testimony.

There is nothing in the record to support Gandy's claim that Judge Rosenthal held a "secret suppression hearing" or had an improper motive in finding that Gandy's motions to suppress were moot in the light of the

Government's responses. These allegations 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."

— *Erroneous or improper decisions regarding motion to withdraw filed by defense counsel Charles Flood*

Gandy complains that Judge Rosenthal granted defense counsel Charles Flood's motion to withdraw "without a hearing while I was in suicide watch" and "falsified" the corresponding docket entry by "saying 'unopposed by Jason Gandy'." A review of the record reflects that Flood filed an "unopposed motion to withdraw" on March 31, 2015, noting that Gandy had retained new counsel. Flood stated he had conferred with the Assistant United States Attorney ("AUSA") who was "unopposed to the motion."⁶ Judge Rosenthal summarily granted the motion to withdraw on April 1, 2015. Contrary to Gandy's claim, neither the motion to withdraw, nor the corresponding docket entry, nor the court's order⁷ stated that the motion was "unopposed by Jason Gandy."

To the extent that this allegation relates directly to the merits of Judge Rosenthal's decision to grant the motion to withdraw without holding a hearing or otherwise affording Gandy an opportunity to respond to the motion, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). The assertion that Judge Rosenthal "falsified" the corresponding docket entry 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."

Gandy further complains that Judge Rosenthal "[did] not say sorry or even acknowledge her structural constitutional error" when he told Judge Rosenthal during a hearing on April 27, 2017, that he had been opposed to

⁶ *USA v. Gandy*, USDC No. 4:12-CR-503 (S.D. Tex.), Motion to Withdraw as Counsel docketed March 31, 2015 (Docket No. 68), at 1.

⁷ *Id.*, Order entered April 1, 2015 (Docket No. 69), at 1.

Flood “quitting” in March 2015. Even assuming arguendo that Judge Rosenthal erred in her decision to allow Flood to withdraw without holding a hearing or otherwise affording Gandy an opportunity to respond to the motion, she would not have been required or obligated to apologize to Gandy for such error. 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.”

— *Erroneous or improper decisions regarding motion to withdraw filed by defense counsel Dan Cogdell and Nicole DeBorde*

Gandy complains that as a “reward for their participation in keeping the [April 3, 2017] meeting a secret,” Judge Rosenthal allowed “my 2 most expensive paid to go to trial lawyers ... to quit a scant 3 weeks after they illegally ruled [the motions to suppress] ‘moot’ without telling me.”

The record reflects that defense counsel Dan Cogdell and Nicole DeBorde filed an unopposed motion to withdraw on April 27, 2017, and the motion was addressed in an ex parte portion of a pretrial conference previously scheduled for that date. Gandy participated in the hearing. A review of the transcript reflects that Cogdell and DeBorde told the court that they were unable to communicate effectively with Gandy due to irreconcilable differences and that Gandy had retained new counsel (who also attended the hearing). Despite expressing dissatisfaction with how rarely Cogdell and DeBorde had met with him, Gandy told the court that he wanted them to represent him at trial. After questioning counsel and Gandy further, Judge Rosenthal granted the motion to withdraw.

To the extent that Gandy is complaining that Judge Rosenthal granted defense counsel’s motion to withdraw over Gandy’s stated preference that they continue to represent him, the allegation related directly to the merits of the judge’s decision and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). As summarized above, nothing in the record supports Gandy’s conclusory assertion that Judge Rosenthal granted the motion to

withdraw as a “reward” for defense counsel’s participation in a “secret” hearing or for their role in the court’s allegedly improper decision to dismiss the motions to suppress as moot. 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.”

Gandy further complains that Judge Rosenthal sealed the transcript of the hearing held on April 27, 2017, “to cover her tracks.” A review of the record reflects that in March 2025, Gandy filed a transcript order form requesting a copy of the transcript of the April 27 hearing. A court reporter prepared the transcript, which was then docketed as sealed on April 21, 2025. Transcripts of hearings on motions to withdraw are routinely sealed to protect attorney-client confidentiality, and Gandy presents no evidence in support of his conclusory assertion that Judge Rosenthal sealed the transcript to “cover her tracks.” 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.”

— *Judge Rosenthal “lied” that Gandy “fired” defense counsel*

Gandy complains that in an order entered on July 10, 2018, denying Gandy’s motion to dismiss Count 1 of the second superseding indictment for lack of a speedy trial, Judge Rosenthal “lied by saying I fired lawyers SHE LET QUIT!” A review of the record reflects that Judge Rosenthal held that the delays from the Government filing two superseding indictments were “vastly overshadowed by the number and lengths of the delays”⁸ caused by Gandy “frequently replac[ing]”⁹ defense counsel between August 2012 and June 2018, and that many continuances were “for the benefit of Gandy or his counsel.”¹⁰ Gandy appears to take issue with Judge Rosenthal’s

⁸ *Id.*, Memorandum and Opinion entered July 10, 2018 (Docket No. 142), at 5.

⁹ *Id.*

¹⁰ *Id.*

characterization of the circumstances surrounding Gandy's substitution of counsel.

To the extent that this allegation relates directly to the merits of Judge Rosenthal's order, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). Gandy has presented no evidence that the judge intentionally made misrepresentations in the order. The conclusory allegation of improper motive 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."

— *Erroneous or improper decisions during trial*

Gandy complains that during the trial, Judge Rosenthal allowed the Government to "use my involuntary statements for purposes of impeachment." This allegation relates directly to the merits of decisions or procedural rulings and is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Gandy also alleges that Judge Rosenthal "helped [the Assistant United States Attorney ("AUSA")] on day 3 of trial by saying 'It could have been another location in Austin' This helped falsely convict me of Count 7. Since I'm not guilty of Count 7 due to [the witness] admitting he lied at my trial, why hasn't [Judge Rosenthal] dropped that count?" A review of the record reflects that, outside the presence of the jury, defense counsel raised a concern about prior testimony by a prosecution witness, who claimed he had stayed "at [Gandy's] house" in Austin during 2007. The defense sought to enter evidence showing that Gandy did not own a house in Austin at that time. The AUSA responded that it was unclear whether Gandy owned the house or merely borrowed or rented it, and she argued that the discrepancy was irrelevant because the count involving that witness related to incidents in Houston, not in Austin. Judge Rosenthal's comment appears to have been aimed at clarifying the AUSA's argument. Defense counsel then told the

court that he had “made a tactical decision not to”¹¹ seek to enter the evidence. Judge Rosenthal ruled that she was “not going to admit [the evidence] given the unavoidably speculative nature of any inference that it might support.”¹²

To the extent that this allegation relates directly to the merits of that ruling, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). The assertion that Judge Rosenthal improperly “helped” the government is belied by the record, and it 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.”

— *Erroneous or improper decisions during post-conviction proceedings*

Gandy complains that in post-conviction proceedings:

- Judge Rosenthal “misabeled” the docket entry for Gandy’s “motion for return of property.”
- Judge Rosenthal “ignored” Gandy’s “emergency compassionate release motion” (which was written on the back of an envelope).
- In an order entered March 31, 2025, addressing Gandy’s motion to unseal various documents, Judge Rosenthal “lied” by listing Docket No. 98—the minute entry for the hearing held April 27, 2017, on Codgell’s and DeBorde’s motion to withdraw—among the requested records that were “not filed under seal.” However, a review of the record reflects that the minute entry was not sealed.

¹¹ *Id.*, at 9.

¹² *Id.*

Tex.), reflects that Gandy's letter—which was captioned for filing in that case—was docketed on August 4, 2025. The case is pending before United States District Judge Charles R. Eskridge III.

Under 28 U.S.C. § 351, complaints of judicial misconduct must be filed with the clerk of the court of appeals for consideration by the chief judge of the circuit, not the chief judge of the district court. Chief Judge Crane therefore had no obligation to respond to a complaint alleging misconduct against a judge in his district. This allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) “lacking sufficient evidence to raise an inference that misconduct has occurred.”

Allegations against Circuit Judges Richman and Haynes

Gandy complains that “rather than admitting, denying, or qualifying” the facts asserted in the brief prepared by Gandy's attorney, Judges Richman and Haynes “submit[ted] their own alternate statement of facts” which was “more than embellishing and misleading. It [was] full of false ‘facts’ [and] flat out lie[s].” He further complains that Judges Richman and Haynes failed to conduct a *de novo* review of the evidence and demonstrated a “lack of care” in affirming the district court's judgment.

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 conclusory assertion that the judges intentionally lied 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.” See *Liteky v. United States*, 510 U.S. 540, 555 (1994).

Gandy also complains that although he retained counsel to represent him on appeal, “[a]t the top it says [I] filed [my] direct appeal *pro se*. This is not true.” A review of the docket reflects that after Judge Richman granted Gandy's attorney's motion to withdraw on November 5, 2019, clerk's office staff updated the docket to reflect Gandy's then-*pro se* status. This allegation

- Judge Rosenthal “lie[d] about what [I was] asking for” by construing Gandy’s Rule 60(b) motion as a second or successive 28 U.S.C. § 2255 petition.
- Judge Rosenthal “lied” in an order denying Gandy’s formal motion for compassionate release.
- Judge Rosenthal denied Gandy’s request to recuse herself from considering his motions for the grand jury transcripts.
- Judge Rosenthal denied Gandy’s motion for the grand jury transcripts without ever watching “the illegal interrogations with case law in hand.”

Gandy concludes that Judge Rosenthal’s decisions “went against the Constitution and Supreme Court Precedent” and resulted in “structural constitutional defects.” Gandy further asserts that the rulings reflect “a not so well-hidden animus” and demonstrate that Judge Rosenthal has “fallen under the spell” of “the moral panic” regarding sex offenses against minors.

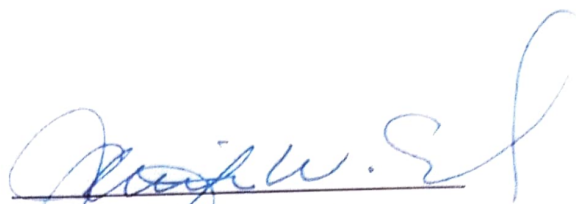
To the extent that these allegations relate directly to the merits of decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). The assertion that Judge Rosenthal “ignored” a “motion” that was written on the back of an envelope and was therefore not properly filed is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) “lacking sufficient evidence to raise an inference that misconduct has occurred.” The conclusory assertions of “lying,” animus, and docket manipulation are likewise 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.”

Allegations against Chief Judge Crane

Gandy complains that Chief Judge Crane has never responded to his correspondence alerting him to Judge Rosenthal’s alleged misconduct. A review of the docket in *Gandy v. Rosenthal*, USDC No. 4:25-CV-1613 (S.D.

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.



JENNIFER WALKER ELROD
Chief Judge