

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

OCT 17 2017

Complaint Number: 05-16-90125

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

MEMORANDUM

Complainant, a *pro se* litigant, has filed a judicial misconduct complaint, and two supplemental complaints, against the subject United States District Judge. Complainant alleges that the judge deliberately failed to provide him with copies of an order granting the defendant's motion to dismiss and a later order denying his motion to supplement his claims against the defendant. He further asserts that the judge intentionally failed to mention that the case was closed in the latter order. Complainant submits that the judge thereby "committed a purposeful act of concealment of the truth in order to misguide [me], leading [me] to miss the deadline for filing an appeal with Court."

To the extent that complainant is alleging that the judge failed to transmit copies of orders to him, the clerk's office is responsible for notifying litigants of court rulings and the allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii). To the extent that complainant is alleging that the judge intentionally prejudiced his ability to file a timely notice of appeal, such a conclusory assertion is insufficient to support a finding of judicial misconduct and is therefore also subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant also complains that in denying his motion to proceed *in forma pauperis* on appeal, the judge: erroneously referred to him as "the defendant"; unjustly held that he failed to make rational legal or factual arguments in support of his claims against the defendant; and, in furtherance of her deliberate interference with this ability to file a timely notice of appeal, held that his claim that he should be excused from filing an untimely appeal was frivolous.

To the extent that the allegations relate directly to the merits of the judge's decisions, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, such conclusory assertions of bias are insufficient to support a finding of judicial misconduct, and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

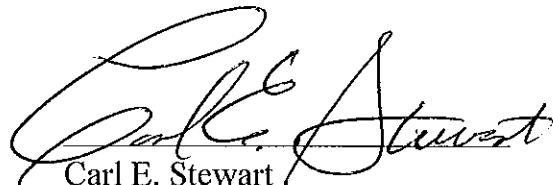
In addition, complainant alleges that the judge's "signatures in each and every one of her denial orders are so condensed as compared to her non-denial orders that they have become unrecognizable."

This patently frivolous allegation is also subject to dismissal 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.

October 11, 2017


Carl E. Stewart
Chief Judge

DEC 20 2017

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-16-90125

Petition for Review by [REDACTED]
of the Final Order Filed October 17, 2017,
Dismissing Judicial Misconduct Complaint
Against [REDACTED]

Under the Judicial Improvements Act of 2002.

ORDER

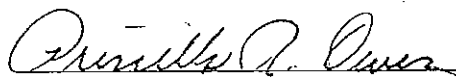
An Appellate Review Panel of the Judicial Council for the Fifth Circuit has reviewed the above-captioned petition for review, and all the members of the Panel have voted to affirm the order of Chief Judge Stewart, filed October 17, 2017, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

Date

12-16-2017



Priscilla R. Owen
United States Circuit Judge
For the Judicial Council of the Fifth Circuit