

FEB 22 2019

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Docket Number: 05-19-90003

MEMORANDUM

Complainant, a state prisoner, claims that the subject United States District Judge “allow[ed]” the district court clerk to intentionally delay mailing to complainant a “letter” dated February 13, 2018. Complainant claims that the letter was postmarked April 18, 2018, and he received it on June 14, 2018.


A review of the record shows that complainant’s letter to the clerk complaining about the purportedly delayed mail was docketed on June 22, 2018, and in which letter complainant stated that the delayed mail included a “second consent to proceed before magistrate judge” form. In response to requests to clarify the claims in the instant complaint, complainant stated that the mail also included a February 12, 2018 notice of case filing and a notice of right to consent to proceed before a magistrate judge. Given that the record shows that complainant timely received (and returned) the first consent form, it is unclear what prejudice he suffered even if, as he claims, he received a second consent form and notices four months later.

Regardless, complainant submits that the judge improperly ignored his letter to the clerk complaining that the court’s February 2018 correspondence was not mailed until April 2018.

The allegation relates directly to the merits of the judge’s decision not to respond to complainant’s letter to the clerk, and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

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.

February 18, 2018


Carl E. Stewart
Chief Judge

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

APR 23 2019

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

No. 05-19-90003

Petition for Review by [REDACTED]
of the Final Order Filed February 22, 2019,
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 Carl E. Stewart, filed February 22, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

4-16-2019
Date

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