

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Docket Number: 05-19-90045

U. S. COURT OF APPEALS
FILED

MAR 11 2019

FIFTH CIRCUIT
LYLE W. CAYGE, CLERK

MEMORANDUM

Complainant, a pro se litigant, has filed a judicial misconduct complaint in which she repeats allegations raised in a prior complaint against the subject United States Magistrate Judge regarding Case A. For example, she asserts the magistrate judge: “allowed [defense counsel] to hold the deposition in his chambers ... [and] to threaten, harass and scold me”; permitted a contract stenographer to transcribe the “phony deposition”; and “pointed his finger at me and told me if I did not answer his questions, I was going to be fined.”

These repetitious allegations are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant further alleges that the magistrate permitted defense counsel “to create phony invoices and checks which became a part of [the] bill of cost[s]” and to fabricate “employment applications” which were presented to her at the deposition.” She also complains that the magistrate judge “followed through on having fines assessed against me.”

To the extent that these allegations relates directly to the merits of the magistrate judge’s decisions, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertion of bias in favor of the defendant appears entirely derivative of the merits-related charges, but to the extent the allegation is separate, it is wholly unsupported, and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

In addition, complainant asserts “[t]he only reason I was released from the [magistrate] judge’s chamber[s] was because I sent letters to U.S. Attorney General, President Obama, and several others stating something was amiss that I had to meet a private law firm in the judge’s chambers.”

This nonsensical allegation is also subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Regarding Case B, complainant complains the magistrate judge denied her motion to recuse and failed to sanction defense counsel for violating Fed. R. Civ. P. 11, sending her blank pages, and naming “the dead CEO of the defendant’s company” as a witness.


These allegations relate directly to the merits of the magistrate judge’s decisions and are 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.

The filing of repetitious complaints is an abuse of the complaint procedure. Complainant is WARNED that should she file a further merits-related, conclusory, frivolous, or repetitive complaint, her right to file complaints may be suspended and, unless she is able to show cause why she should not be barred from filing future complaints, the suspension will continue indefinitely. See Rule 10(a), Rules For Judicial-Conduct or Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.

March 5, 2019


Carl E. Stewart
Chief Judge

U. S. COURT OF APPEALS
FILED

JUL 03 2019

FIFTH CIRCUIT
EYLE W. GAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-19-90045

Petition for Review by [REDACTED]
of the Final Order Filed March 11, 2019,
Dismissing Judicial Misconduct Complaint

Against [REDACTED]

Under the Judicial Improvements Act of 2002.

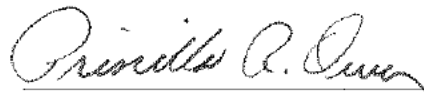
ORDER

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 March 11, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

6-28-2019
Date



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