

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS  
FILED

JUL 18 2019

FIFTH CIRCUIT  
LYLE W. GAYCE, CLERK

---

Docket Number: 05-19-90129

---

MEMORANDUM

Complainant, a pro se litigant, has filed a judicial misconduct complaint against the subject United States Circuit Judge who dismissed her judicial misconduct complaint against a United States Magistrate Judge, finding the allegations were subject to dismissal under 28 U.S.C. §§ 352(b)(1)(A)(ii) and (iii) as merits-related, conclusory, frivolous, and repetitive. Noting that it was complainant's third judicial misconduct complaint to be dismissed under 28 U.S.C. §§ 352(b)(1)(A)(ii) and (iii), the judge also warned complainant that if she filed a further merits-related, conclusory, frivolous, or repetitive complaint, her right to file complaints might be suspended indefinitely pursuant to Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.


Complainant complains that the judge: ignored the evidence that defense counsel in the underlying district court proceeding "created ... bogus checks"; "engage[d] in [a] coverup with the [district court clerk] to have certain documents removed from the records"; "allow[ed] white attorneys to have exclusive use of the federal courts in the Fifth Circuit; they can hold depositions in the judge's chamber, they can scold African Americans"; and "refused to remove or cause to have removed [the magistrate judge] from a case." She further alleges that the judge's warning against filing a further merits-related, conclusory, frivolous, or repetitive complaint constituted "a stern warning to [an] African American that there will be consequences for filing meritless complaints," whereas the judge did not issue a "warning to [defense counsel in the underlying district court litigation] for using the [magistrate] judge's chamber as a torture chamber."

To the extent that these allegations relate directly to the merits of the judge's decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertions of racism or bias appear entirely derivative of the merits-related charges, but to the extent the allegations are separate, they are wholly unsupported, and are therefore 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.

Complainant has been warned previously against filing further merits-related, conclusory, frivolous, or repetitive complaints. Complainant's right to file complaints is hereby SUSPENDED pursuant to Rule 10(a), Rules For Judicial-Conduct and Judicial-Disability Proceedings. She may show cause, through a petition for review submitted pursuant to Rule 18, why her right to file further complaints should not be so limited.

An order dismissing the complaint is entered simultaneously herewith.

  
\_\_\_\_\_  
Jerry E. Smith  
Circuit Judge

7-11 \_\_\_\_\_, 2019

OCT 01 2019

FIFTH CIRCUIT  
LYLE W. GAYNE, CLERK

BEFORE THE JUDICIAL COUNCIL  
OF THE FIFTH CIRCUIT

---

No. 05-19-90129

Petition for Review by [REDACTED]  
of the Final Order Filed July 18, 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 Circuit Judge Jerry E. Smith, filed July 18, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

**AFFIRMED IN ALL RESPECTS.**

9-26-2019  
Date



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