

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Complaint Numbers: 05-19-90157 and 05-19-90158

U. S. COURT OF APPEALS
FILED

OCT 08 2019

FIFTH CIRCUIT
LYLE W. GAYE, CLERK

MEMORANDUM

Complainant, a state prisoner, has filed a rambling and barely intelligible complaint against United States District Judge A and United States District Judge B. He asserts that in “dismissing my [lawsuits]” against a United States President and a State Governor, Judge A engaged in “enforcing illegal laws ... backdating violations and false entries, harboring hostages, ... illegal trust fund hold, indigent’s I-60 policy violations, illegal fees, etc.” and participated in “conspiracy and organized crime” with the defendants. He further contends that the judge’s references to complainant’s history of filing “frivolous and malicious” lawsuits were “slanderous, offensive, and belittling, and disrespectful.”

To the extent that these allegations relate directly to the merits of the judge’s orders and procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegation of conspiracy 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) as “lacking sufficient evidence to raise an inference that misconduct has occurred.”

Complainant also submits that Judge A violated Rule 11(a) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings which “state[s] that [the judge] was suppose[d] to see the illegal laws whether the complaint allege[d] them or not, and then reported the State ... & America[n] government misconduct by referring it to a Special Committee, yet he failed to do so therefore this resulted in federal felony voyeurism and worse, etc.”

Rule 11(a)—explicitly captioned “Purpose of Chief Judge’s Review” and which pertains to a chief circuit judge’s consideration of complaints of misconduct or disability

filed under 28 U.S.C. §§ 351-364—does not apply to a district judge, and the allegation is therefore is subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii).

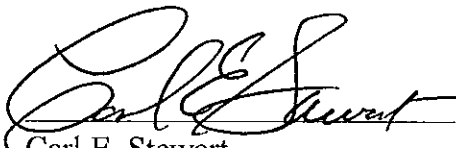
Complainant reports that in February 2013 prison officials informed him that Judge A, Judge B, and the district court clerk's office "have been placed on your negative mailing list. You will not be allowed to send or receive mail from these individuals." He protests that "this social disorder of the federal judges and clerks resulted in a social disorder atmosphere wherein I encountered unlawful orders, unlawful restraints, prohibited weapons, civil death, sexual misconduct, sexual harassment, voyeurism, sexual assault, illegal use of force, inadequate nutrition, pseudoscience, falsified records, identity theft, deprivation to the grievance procedures, illegal detainment, heat restriction violations, etc." Complainant concludes that Judge A and Judge B are both suffering from "a mental illness ... disability ... Anti-Social Disorder and Personality Disorder."

To the extent, if any, that these allegations relate directly to the judges' decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegation of mental disability 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) as lacking sufficient evidence to raise an inference that either judge is suffering from a disability.

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.

September 30, 2019


Carl E. Stewart
Chief Judge

DEC 03 2019

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

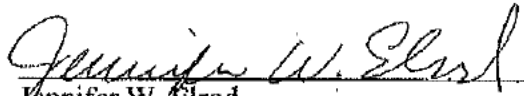
No. 05-19-90157 through 05-19-90158
Petition for Review by [REDACTED]
of the Final Order Filed October 08, 2019,
Dismissing Judicial Misconduct Complaint
Against [REDACTED]
Under the Judicial Improvements Act of 2002.

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 October 08, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore AFFIRMED.

11/25/19
Date


Jennifer W. Elrod
United States Circuit Judge
For the Judicial Council of the Fifth Circuit