

**FILED**

February 4, 2022

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-22-90040

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## MEMORANDUM

Complainant, a state prisoner, has filed a complaint alleging misconduct by the subject United States District Judge in complainant's 42 U.S.C. § 1983 proceeding.

In January 2022, noting that complainant had previously accrued three strikes for the purposes of 28 U.S.C. § 1915(g) and had not demonstrated that he was in imminent danger of serious physical injury, the judge denied complainant's application to proceed in forma pauperis and dismissed the lawsuit.

Complainant appears to complain that the judge "[could not] be impartial or disinterested" in presiding over the case because complainant had previously filed a lawsuit alleging the judge was involved in "the same racketeering cover-up." He submits that in dismissing the case, the judge "knowingly and willingly act[ed] to influence his own cover-up for the same RICO crimes. He's not stupid, he's unethical and covering up his own involvement."

To the extent that these allegations relate directly to the merits of decisions or procedural rulings, including any implied decision not to recuse sua sponte, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertion 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.”

An order dismissing the complaint is entered simultaneously herewith.



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Priscilla R. Owen  
Chief United States Circuit Judge

February 2, 2022