

FILED

March 15, 2023

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-22-90120 through 05-22-90123

MEMORANDUM

Complainant, a state prisoner, has filed a complaint alleging misconduct by United States District Judge A in Case 1, by United States District Judge B in Case 2, by a United States Magistrate Judge in Case 3 and Case 4, and by United States District Judge C in Case 5.¹

— *Case 1*

Complainant reports that Judge A “wrote the order to release the surveillance cameras video,” reviewed the video footage which showed “several inmates come and go to/from my cell . . . to mental and physical tortured me [sic],” and then “interviewed those inmates, confirming that I’ve had said the true [sic].” He complains that Judge A failed “to report the crime to competent authorities.”

A review of the docket shows that Judge A’s only action was transferring the case to another division.

¹ The instant complaint was filed as a supplement to a pending complaint against the same judicial officers. Pursuant to Fifth Circuit Procedure 6(g) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, once a complaint is filed, it may not be supplemented with additional allegations. Complainant repeats various allegations raised in his prior complaint, but this order addresses only his additional allegations.

Complainant's claims are not supported by the record and are 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."

— *Case 2*

Complainant complains that Judge B "c[a]ught or grabbed my disciplinary appeal § 2254. He dismissed it." The remainder of complainant's allegations against the judge are unintelligible.

To the extent that the allegations relate directly to the merits of decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegations are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Case 3 and Case 4

In his prior complaint, complainant alleged that the magistrate judge erroneously and improperly recommended that the district court should dismiss as time-barred complainant's 28 U.S.C. § 2254 claims in Case 3. Complainant now appears to assert that the magistrate judge's denial of his motion to change venue in Case 4 demonstrates a pattern of bias against him.

Complainant is mistaken. A review of the record in Case 4 shows that the presiding judge—who transferred Case 4 to another jurisdiction—was a district court judge, not the subject magistrate judge. The allegation is therefore subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(ii).

Case 5

Complainant alleges that Judge C reviewed evidence at the prison, and "completely ignored the fact that his bench in the courtroom is the place to review evidence and the power of the judge comes from the courtroom." Noting that the judge has (purportedly) "ordered [prison authorities] to release me, about 10 times per month," complainant concludes that the judge must be "profiting from letting [prison authorities] keep me hostage."

There is nothing in the record to support these claims. To the extent, if any, that these allegations relate directly to the merits of 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 abuse of judicial power or improper motive 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) as “lacking sufficient evidence to raise an inference that misconduct has occurred.”

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.

/s/ Priscilla Richman

Priscilla Richman

Chief United States Circuit Judge

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