

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS

FILED

JAN 08 2016

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

Docket Number: 05-16-90005

MEMORANDUM

Complainant, a state prisoner, complains that the subject United States District Judge erroneously and prejudicially held that complainant, who had previously accrued three strikes under 28 U.S.C. § 1915(g) for filing frivolous or malicious lawsuits, failed to show he was in imminent danger and was therefore not entitled to proceed *in forma pauperis*. He further complains that the judge dismissed his lawsuit without holding a hearing on the merits of his claims, and denied his motion to alter or amend judgment. Complainant concludes that these adverse rulings demonstrated the judge's "partiality towards the [defendant]" and "constituted ... testimony voluntarily given as a character witness against my interest".

To the extent that the allegations relate directly to the merits of the judge's decisions, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, such conclusory assertions of bias are insufficient to support a finding of judicial misconduct, and are 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.

An order dismissing the complaint is entered simultaneously herewith.



Carl E. Stewart

Chief Judge

December 31
October 12, 2015

U. S. COURT OF APPEALS
FILED

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FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-16-90005
Petition for Review by [REDACTED]
of the Final Order Filed January 8, 2016
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 Stewart, filed January 8, 2016, dismissing the Complaint of [REDACTED], against [REDACTED], under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

Date

February 18, 2016

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