

JAN 29 2010

FIFTH CIRCUIT  
LYLE W. CAYCE, CLERK

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

Docket Numbers: 05-18-90029 and 05-18-90030

---

MEMORANDUM

Complainant, a federal detainee, complains that in his pending criminal proceeding, the subject United States District Judge and the subject United States Magistrate Judge have engaged in “brazen judicial misconduct” and “intentional disregard of the truth,” violated his civil rights, and committed federal crimes.

Complainant alleges that the magistrate judge improperly granted retained defense counsel’s motion to withdraw.

The allegation relates directly to the merits of the magistrate judge’s decision, and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Based on the government’s filing of a superseding indictment, and defense counsel’s purported claim that the judge “agreed to delay the trial if I were charged with a new crime,” complainant alleges that the judge “was criminally assisting the government’s malicious prosecution.” He further contends that the judge’s order granting defense counsel’s motion for a competency evaluation was “frivolous” and “false”, and included “blatant lie[s]” regarding the court’s expressed concern regarding complainant’s mental competence during the hearing and the possibility that complainant was “exaggerating some of his symptoms and conduct.” He also claims that when he “scolded” defense counsel for communicating with him during a court-ordered mental competency restoration period, defense counsel purportedly responded that “[the judge] ordered him and the prosecutor to stand down on this case.” Complainant protests that the judge’s orders “strip[ped] me of all my remaining constitutional rights.”

In addition, complainant objects that the judge has not allowed him to fire defense counsel or to represent himself, and “refuses to allow me to move forward with my case.”

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 conspiracy are insufficient to support a finding of judicial misconduct and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

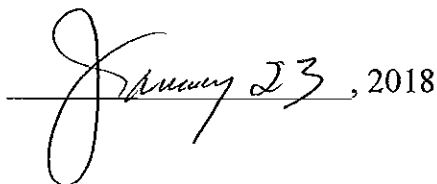
Complainant’s allegations regarding numerous improper or erroneous rulings entered by the judge and the magistrate judge between November 2015 and April 2016 are repetitious of allegations raised in a prior complaint, all of which were considered and dismissed.


These repetitious allegations are subject to dismissal as frivolous 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.

This is complainant’s second merits-related and conclusory judicial misconduct complaint regarding the same proceeding. Complainant is WARNED that should he file a further merits-related, conclusory, or frivolous complaint, or should he file further repetitious allegations, his right to file complaints may be suspended and, unless he is able to show cause why he should not be barred from filing future complaints, the suspension will continue indefinitely. See Rule 10(a), Rules For Judicial-Conduct or Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.

 January 23, 2018

  
Carl E. Stewart  
Chief Judge

APR 02 2018

FIFTH CIRCUIT  
LYLE W. GAYGE, CLERK

BEFORE THE JUDICIAL COUNCIL  
OF THE FIFTH CIRCUIT

---

No. 05-18-90029 and 05-18-90030  
Petition for Review by [REDACTED]  
of the Final Order Filed January 29, 2018,  
Dismissing Judicial Misconduct Complaint

Against [REDACTED] and  
[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 29, 2018, dismissing the Complaint of [REDACTED] against [REDACTED] and [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

**AFFIRMED.**

3-27-2018

Date

Priscilla R. Owen

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