

FILED

July 24, 2020

Lyle W. Cayce
Clerk

**JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT**

Complaint Number: 05-20-90114

M E M O R A N D U M

Complainant, a state pretrial detainee, complains that despite his filing a second amended complaint in a prisoner civil rights proceeding, the subject United States District Judge erroneously and prejudicially continued referring to the first amended complaint which “is of no legal force or effect” and insisted that complainant provide a more definite statement regarding that “abandoned” complaint. He further alleges that “the 53 questions” the judge posed in the order for a more definite statement were “extremely prejudicial and irrelevant, and put a substantial burden on me.” Complainant concludes that “it is clear that [the judge] does not like me, and it can only be based on the fact that I am a pro se, pretrial detainee.”

To the extent 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 assertion of bias 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.”

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.



Priscilla R. Owen
Chief United States Circuit Judge

July 23, 2020