

FILED

April 13, 2021

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-21-90088

MEMORANDUM

Complainant, a state prisoner, has filed a complaint alleging misconduct by the subject United States Magistrate Judge.

Complainant complains the magistrate judge erroneously and improperly denied a motion for default, a motion for an extension of time to complete discovery, a motion to compel defendants to provide Rule 26 disclosures, and a motion to consolidate his case with the case of another prisoner. He avers that these denials of his motions demonstrate the magistrate judge's bias against him.

To the extent 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."

Complainant further complains that in response to a request that the district court clerk provide him with a list of special masters, the clerk advised him that such a request was not applicable to his case.

This aspect of the complaint does not allege any conduct, improper or otherwise, by the magistrate judge, and is therefore 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.

The complaint is DISMISSED.



Priscilla R. Owen
Chief United States Circuit Judge

April 12, 2021