

**FILED**

June 15, 2021

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-21-90100

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## MEMORANDUM

Complainant, a state prisoner, alleges that the subject United States Magistrate Judge lacked jurisdiction under 28 U.S.C. 636(b)(1) to construe his motion to dismiss the indictment as a supplemental brief in his 28 U.S.C. § 2254 proceeding. He further alleges that the magistrate judge “issued erroneous fact findings and recommendations.” Complainant contends that these rulings constitute evidence that the magistrate judge “is either in collusion . . . with the lower state courts . . . to deny [my] petition” or is suffering from a mental disability.

To the extent that these allegations relate directly to the merits of the decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegations of collusion with the state court or mental disability appear entirely derivative of the merits-related charges, but to the extent the allegations are separate, they are wholly unsupported, and are 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” or that the magistrate judge is mentally infirm.

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.

A handwritten signature in cursive script that reads "Priscilla R. Owen".

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Priscilla R. Owen  
Chief United States Circuit Judge

June 10, 2021