

FILED

August 12, 2021

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-21-90130 through 05-21-90136

MEMORANDUM

Complainant, a state prisoner, alleges misconduct by United States District Judge A and United States Magistrate Judge A in complainant's 42 U.S.C. § 1983 proceeding, and by the three United States Circuit Judges X, Y, and Z on appeal.

Complainant complains that Magistrate Judge A:

- denied his motion for discovery and denied his motion for leave to file a third amended complaint “without justification”;
- “encouraged and allowed [defense counsel] to present records in support of the defendants' position, then accept[ed] the contents and inferences of those records as true and correct evidence,” but arbitrarily “denied me the opportunity to do the same”;
- “allowed the defendants to file false records and get away with this crime”;
- “lied in her [R]eport and [R]ecommendation wrongfully dismissing/denying my fact pleadings [be]cause she lied about the *Martinez* Report records that there [was no] evidence to [support] [my] complaint”; and,

— did not “take my version of facts” and “ignored [my]” non-frivolous claims, and thereby “erred” and “violated the law” by “refusing to allow my claims to go to trial.”

Complainant states that despite these erroneous and improper decisions to the court’s attention in his objections to the magistrate judge’s Report and Recommendation, District Judge A “continued the unlawful practice of judicial misconduct” by adopting those findings and dismissing complainant’s claims as frivolous.

Complainant also asserts that the three Circuit Judges “unlawfully ignored and denied” his motions and violated his due process rights by using “vague” and “invalid case laws against me in their opinion” dismissing the appeal.

In addition, complainant alleges misconduct by United States District Judge B and United States Magistrate Judge B in another 42 U.S.C. § 1983 proceeding. He alleges that the district judge and the magistrate judge:

- “allowed [defense counsel] to file false and misleading records in the *Martinez* Report”;
- “accepted all the records as true and correct evidence, then denied me the right to discover evidence to prove my claims”; and,
- dismissed the lawsuit with prejudice.

To the extent that these allegations relate directly to the merits of rulings or procedural decisions, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegations of bias and other improper conduct 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.”

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

_____ August 11, _____, 2021