

FILED

June 9, 2022

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-22-90075

MEMORANDUM

Complainant, a state detainee, has filed a complaint alleging misconduct by the subject United States District Judge in a 42 U.S.C. § 1983 proceeding.

Complainant complains that despite notifying the court that he was not eligible to proceed in forma pauperis, the judge “refused” to order complainant’s custodian to give him access to his checkbook to pay the filing fee, and then dismissed complainant’s lawsuit based on “false and antithetical pretenses,” i.e., for want of prosecution and for failure to obey orders of the court.

This aspect of the complaint relates directly to the merits of a decision or procedural ruling and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant further asserts that the judge engaged in “unlawful obstruction of the appeal process [by] refusing to provide two copies of the original filing . . . [at] fifty cents per page.” The only docket entry seemingly corresponding to this allegation is a handwritten “instrument” complainant filed inquiring about the method of payment for the filing fee and for two copies “of the original filing,” at the bottom of which document complainant set out blank signature and date lines to be completed by the judge.¹

¹ The docket also includes complainant’s letters asking the clerk to provide copies of various documents (including one copy of the “original filing”), and two responses from the clerk advising that complainant’s requests could not be fulfilled without prepayment of the 50¢

To the extent that the complaint relates directly to the merits of the judge's decisions or procedural rulings, including any implied decision not to construe complainant's "instrument" as a formal motion requesting copies of a document, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertion of "unlawful obstruction of the appeal process" appears entirely derivative of the merits-related charge, 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.

This is complainant's third merits-related and conclusory judicial misconduct complaint. Complainant is WARNED that should he file a further merits-related, conclusory, frivolous, and/or repetitive complaint, 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 and Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.

/s/ Priscilla Richman
Priscilla Richman
Chief United States Circuit Judge

June 8, 2022

per page copying fee. There is no record of the judge denying any such request for copies of documents.