

FILED

April 5, 2023

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-23-90018 and 05-23-90019

MEMORANDUM

Complainant, an attorney, has filed a complaint alleging misconduct by the subject United States Bankruptcy Judge (Judge A) in a bankruptcy proceeding and by the subject United States District Judge (Judge B) in a related appeal.

Complainant alleges that Judge A and Judge B did not allow him to appear as counsel for a debtor in bankruptcy, either in the debtor's bankruptcy proceeding or in her appeal to the district court. He further complains that: the judges threatened him with sanctions for pressing his arguments; Judge A should have conducted evidentiary hearings; and the judges engaged in ex parte communications before Judge B's order directing complainant to cease signing and filing pleadings on the debtor's behalf.

Complainant's arguments about the judges' decisions not to allow him to represent the debtor, not to hold hearings, and to warn him of sanctions are directly related to the merits of those decisions and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Complainant offers no basis or evidence for his allegation that the judges engaged in improper ex parte communications, and that allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) as lacking sufficient evidence to raise an inference of misconduct.

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 Richman".

Priscilla Richman

Chief United States Circuit Judge

April 5, 2023