

FILED

April 5, 2023

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-23-90021

MEMORANDUM

Complainant, a state pretrial detainee, has filed a complaint alleging misconduct by the subject United States District Judge in complainant's 28 U.S.C. § 2241 proceeding.

The complaint is largely unintelligible, making it difficult to discern whether the allegations are aimed at the respondents in complainant's 28 U.S.C. § 2241 proceeding and/or at other individuals involved in his pending state criminal case and/or at the subject judge.

Complainant appears to complain that the judge erroneously and improperly denied his § 2241 petition for failure to exhaust administrative remedies. Regarding a footnote explaining that, even if complainant had exhausted state court remedies, the court would be required to decline to exercise jurisdiction over his claims pursuant to *Younger v. Harris*, 401 U.S. 37, 45 (1971), complainant objects that the (discussion of the applicability of) the *Younger* abstention is a "threat to our lives [sic]."

Without providing any support for the assertions, complainant appears to further protest that the judge's dismissal order violated Canon 3(A)(6) of the Code of Conduct for United States Judges by making a public comment about the merits of complainant's pending state criminal

proceeding,¹ and violated Canon 5(A)(2) by “recklessly misrepresent[ing] the identity qualifications, positions or other fact concerning the candidate or opponent.”² He submits that these violations were committed in conspiracy with the respondents and/or other individuals involved in his pending state criminal proceeding.

Complainant also complains that the judge’s denial of a certificate of appealability and decision to construe his certificate of appealability as a Notice of Appeal were erroneous and improper.

To the extent that 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, the assertions that the judge violated the Canons of the Code of Conduct for United States Judges and conspired with the respondents and/or others are wholly unsupported and are 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 fourth complaint to be dismissed under 28 U.S.C. §§ 352(b)(1)(A)(ii) and/or (iii), and he has been warned previously against filing a further merits-related, conclusory, or frivolous complaint. Complainant’s right to file complaints is hereby SUSPENDED pursuant to Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Complainant may show cause, through a petition for review submitted

¹ Guide to Judiciary Policy, Vol. 2A, Ch. 2, Canon 3(A)(6) provides: “A judges should not make public comment on the merits of a matter pending or impending in any court.”

² Canon 5(A)(2) provides that a judge should not “publicly endorse or oppose a candidate for public office.”

pursuant to Rule 18, why his right to file further complaints should not be so limited.

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

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