

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS  
**FILED**

JAN 11 2016

FIFTH CIRCUIT  
LYLE W. CAYCE, CLERK

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Docket Number: 05-16-90030

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MEMORANDUM

Complainant, a federal prisoner, alleges that in denying his motions for relief from judgment, the subject United States District Judge continues to demonstrate “constitutional indifference, deliberate negligence, and purposeful avoidance” toward complainant’s claims that his constitutional rights have been violated.

The allegation relates directly to the merits of the judge’s decisions and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant further asserts that the judge has engaged in “egregious mismanagement and mishandling of dozens of [my] legal filings” sent to the clerk of the district court and/or to chambers. He contends that “the loss or destruction of substantive filings is fraud upon the court ... [and] irrefutably resembles purposeful malfeasance.” The undersigned dismissed a similar allegation in complainant’s prior judicial misconduct complaint against the judge regarding the same proceeding.

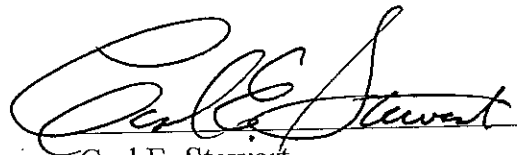
To the extent that complainant is asserting that motions mailed to chambers were not docketed, the proper place for filing documents pertinent to a case pending in the district court is with the clerk of court, not with the presiding judge. In any event, if in fact documents sent to the clerk’s office or to chambers were not filed, there is no reason to suppose that any fault can be attributed to the judge, and the allegation is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii). In other respects, such a conclusory assertion of intentional delay in ruling on docketed motions is insufficient to support a

finding of judicial misconduct, and is therefore also subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

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 second complaint against the subject judge regarding the same proceeding, and includes repetitious allegations. This is an abuse of the complaint process. Complainant is WARNED that should he file a further merits-related or frivolous 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 or Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.



Carl E. Stewart  
Chief Judge

January 5, 2015<sup>6</sup>

U. S. COURT OF APPEALS  
**FILED**

**MAR 22 2016**

**FIFTH CIRCUIT  
LYLE W. CAYCE, CLERK**

BEFORE THE JUDICIAL COUNCIL  
OF THE FIFTH CIRCUIT

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No. 05-16-90030  
Petition for Review by [REDACTED]  
of the Final Order Filed January 11, 2016  
Dismissing Judicial Misconduct Complaint Against  
[REDACTED]  
Under the Judicial Improvements Act of 2002.

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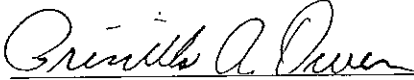
ORDER

An Appellate Review Panel of the Judicial Council for the Fifth Circuit has reviewed the above-captioned petition for review, and all the members of the Panel have voted to affirm the order of Chief Judge Stewart, filed January 11, 2016, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

**AFFIRMED.**

3-17-2016  
Date

  
Priscilla R. Owen  
United States Circuit Judge  
For the Judicial Council of the Fifth Circuit