

JAN 14 2019

FIFTH CIRCUIT
LYLE W. CAYCE, CLERKIN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Docket Number: 05-18-90066

M E M O R A N D U M

Complainant, a state prisoner, complains that the subject United States District Judge has “ignored” his letters complaining that the clerk failed to docket complainant’s motion to file an amended prisoner civil rights complaint.

It is entirely proper for a judge to not respond to a litigant’s *ex parte* communications, and the allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii). To the extent, if any, that the allegation might be construed as being aimed at the judge’s implied failure to construe the letters as formal motions for relief, it relates directly to the merits of the judge’s implied decisions and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant further asserts that, as of April 13, 2018 when he wrote the instant complaint, he had not “received an update status regarding [my] lawsuit.” It is evident from the record that complainant received the judge’s March 2018 order and that the case is proceeding normally. There is no evidence of judicial delay or of failure to keep complainant apprised of the status of the case, and the allegation is therefore subject to dismissal as frivolous 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 third merits-related, conclusory, or frivolous judicial misconduct complaint. Complainant is WARNED that should he file a further merits-related, conclusory, 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.

January 9, 2018


Carl E. Stewart
Chief Judge

APR 16 2019

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-18-90066

Petition for Review by [REDACTED]
of the Final Order Filed January 14, 2019,
Dismissing Judicial Misconduct Complaint
Against [REDACTED]
Under the Judicial Improvements Act of 2002.

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 Carl E. Stewart, filed January 14, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

Date

4.06.19



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