

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Docket Number: 05-18-90078

MEMORANDUM

Complainant, a *pro se* litigant, alleges that the subject United States District Judge's decision that complainant's appeal in a 2014 civil proceeding was not taken in good faith was based on "a v[e]ndetta against me" and "unfair racial judgments and unethical law practices." He further asserts that the judge's denial of in forma pauperis status on remand demonstrates a failure "to abide by [the Fifth Circuit's] ruling," "an abuse of discretion," and a "violation of due process."

Complainant also submits that the judge's "the repeated conduct ... to deny me access to the court and ordering [me] to pay full filing fees," and the judge's "refusal" to rule on the merits of complainant's claims in the 2014 proceeding and other cases, constitute evidence of "racial injustice" and intentional violations of his rights under the Civil Rights Act and the Americans with Disabilities Act.

To the extent that these allegations relate directly to the merits of the judge's decisions, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the conclusory assertions of bias and racial animus lack sufficient evidence to raise an inference that misconduct has occurred, and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant concludes that the judge harbors racial animus against African-American litigants, and claims the judge "stated that no nigger was not going to file nothing up in his court room." When given the opportunity to provide further information regarding the judge's alleged statement, complainant responded: "No [the judge] did not exactly make the statement, I was in the clerk's office when I overheard the conversation

by two clerks. And this is when I imagen [sic] it came from his office of him [sic] in general.”

This allegation is frivolous and is therefore 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 the third judicial misconduct complaint in which complainant makes conclusory assertions of racial animus based on nothing more than the subject judges’ adverse rulings. This is an abuse of the complaint process, and complainant has been warned previously against filing further merits-related, conclusory, or frivolous complaints.

Complainant’s right to file complaints is hereby SUSPENDED pursuant to Rule 10(a), Rules For Judicial-Conduct or Judicial-Disability Proceedings. Complainant may show cause, through a petition for review submitted 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.

 January 9, 2018


Carl E. Stewart
Chief Judge

MAR 15 2019

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-18-90078

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

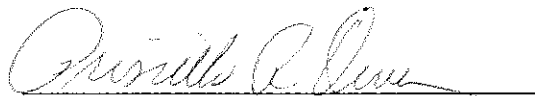
An Appellate Review Panel of the Judicial Council for the Fifth Circuit has reviewed the above-captioned petition for review, and all the members of the Panel have voted to affirm the order of Chief Judge Carl E. Stewart, filed January 14, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED IN ALL RESPECTS.

Date

3-13-2019



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