

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS

FILED

JUL 05 2018

FIFTH CIRCUIT

LYLE W. CAYCE, CLERK

Complaint Number: 05-18-90080

MEMORANDUM

Complainant, a state prisoner, has filed a judicial misconduct against the subject United States Circuit Judge before whom complainant's judicial misconduct complaint against a United States District Judge is pending. He alleges that the subject judge "is doing the very same as [the district judge] (allowing pro se legal work) ... He seen [sic] this but failed to appoint me counsel." Complainant further asserts that the subject judge is "aid-abet ... [the district judge's] federal crimes" by failing to promptly find that the district court lacks jurisdiction over, and the district judge must therefore dismiss, a prisoner class action lawsuit in which complainant was denied leave to intervene.

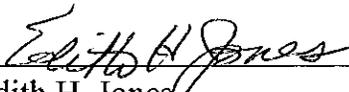
To the extent that complainant is asserting undue delay in ruling on his judicial misconduct complaint against the district judge, there is no evidence of improper motive or lack of diligence, and the allegation is therefore subject to dismissal 28 U.S.C. § 352(b)(1)(A)(iii). See Rule 3(h)(3)(B) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings. In other respects, the allegation that the subject judge has failed to promptly grant relief not available under the judicial misconduct complaint process is subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii).

Seemingly referring to a deputy clerk's letter asking how the Clerk should construe certain documents complainant mailed to the court, and advising complainant about the requirements of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, complainant also complains that the subject judge is "allowing" deputy clerks to "practice law."

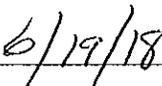
The allegation is frivolous and is therefore also subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

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.

An order dismissing the complaint is entered simultaneously herewith.



Edith H. Jones
Circuit Judge



Date