

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

JAN 16 2019

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

Docket Number: 05-18-90126

MEMORANDUM

Complainant, a *pro se* litigant, has filed a judicial misconduct complaint against the subject United States District Judge who, in May 2018, dismissed his civil rights lawsuit without prejudice. He alleges that the judge denied him due process and “obstructed justice” by “throw[ing] [the] Good Black Female Magistrate [Judge] off the case” and by dismissing his lawsuit without a trial. Complainant appears to further assert that the judge’s (partial) recitation of his history of filing frivolous lawsuits and his use of abusive, threatening, and offensive language constituted a “personal attack.” He concludes that the judge “is bias[ed] against All Blacks.”

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 assertions of personal bias and racial animus appear entirely derivative of the merits-related charges, but to the extent these allegations are separate, they 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 the third judicial misconduct complaint in which complainant has made unsupported allegations that a judge’s unfavorable rulings are the result of racial animus. This is an abuse of the complaint process. 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 17, 2018


Carl E. Stewart
Chief Judge

APR 30 2019

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-18-90126

Petition for Review by [REDACTED]
of the Final Order Filed January 16, 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 16, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

4-23-2019
Date


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