

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

Docket Numbers: 05-19-90016 through 05-19-90018

OCT 23 2018

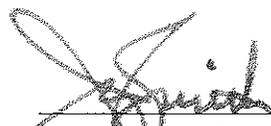
FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

MEMORANDUM

Complainant, a federal prisoner, complains that in considering his argument that a “constructive amendment” occurred with respect to one count of complainant’s criminal indictment, the three subject United States Circuit Judges held that any error did not seriously affect the fairness, integrity, or public reputation of the judicial proceedings. He protests that this “absurd” decision ignored Fifth Circuit precedent, was “clearly calculated to be overlooked by a pro se appellant,” represents abuse and judicial misconduct that perhaps is unprecedented in the history of the Fifth Circuit Court of Appeals,” and “confirms the existence of an orchestrated and Court-wide denial of due process, for the prejudicial purpose of validating prior (pre-adjudication) opinions of guilt.”

To the extent that the allegations relate directly to the merits of the judges’ decision, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the assertions of “calculated” bias and “orchestrated” abuse of judicial power 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.”

An order dismissing the complaint is entered simultaneously herewith.



Jerry E. Smith
United States Circuit Judge

10-18, 2018

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FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL

OF THE FIFTH CIRCUIT

No. 05-19-90016 through 05-19-90018

Petition for Review by [REDACTED]
of the Final Order Filed October 23, 2018,
Dismissing Judicial Misconduct Complaint

Against [REDACTED] and
[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 Circuit Judge Jerry E. Smith, filed October 23, 2018, dismissing the Complaint of [REDACTED] against [REDACTED]

[REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

11-15-2018
Date



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