

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Docket Number: 05-19-90023

U. S. COURT OF APPEALS
FILED

FEB 22 2019

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

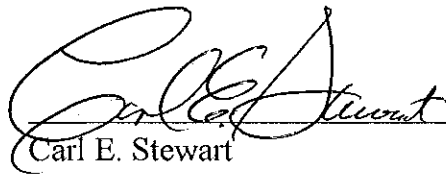
MEMORANDUM

Complainant, a pro se litigant, complains that the subject United States Magistrate Judge erroneously denied his motion for default judgment against a defendant who filed a purportedly untimely motion to enroll counsel, and erroneously held that the district court lacked subject matter jurisdiction over a state court proceeding complainant sought to remove to federal court. Noting that he did not consent to proceed before a magistrate judge, complainant further protests that the magistrate judge lacked jurisdiction to enter the orders. He concludes that the magistrate judge's rulings demonstrate a "preconceived position toward [my] rights in this case ... bias and prejudice against me because race [sic] and against my constitutional rights and due process of law."

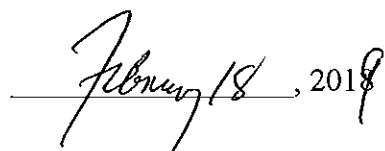
To the extent that the allegations relate directly to the merits of the magistrate judge's decisions, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the assertions of prejudgment and racial bias appear entirely derivative of the merits-related charges, but to the extent the 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.

An order dismissing the complaint is entered simultaneously herewith.



Carl E. Stewart
Chief Judge


February 18, 2019

U. S. COURT OF APPEALS
FILED

APR 03 2019

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-19-90023

Petition for Review by [REDACTED]
of the Final Order Filed February 22, 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 February 22, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

3-29-2019
Date


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