

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS  
**FILED**

MAR 11 2019

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Docket Number: 05-19-90039

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FIFTH CIRCUIT  
LYLE W. CAYCE, CLERK

MEMORANDUM

Complainant, a pro se litigant, alleges that during an August 2018 hearing when “I was trying to explain the reasoning of my disagreement with the Waiver of Service,” the subject United States District Judge “disrespectfully made baby noises to indicate that I was not comprehending the Waiver of Service process.” She protests that the judge “is aware that I am mentally disable[d] ... that does not give a judge a right to act in an inappropriate manner nor does it give the judge a right not to grant justice because of my incompetence and disability.”

The undersigned conducted a limited inquiry pursuant to 28 U.S.C. § 352(a)(2). A review of the audio-recording of the hearing indicates that the judge did not make “baby noises.” Indeed, throughout the hearing the judge was patient and respectful towards complainant, and he made every effort to help her understand the relevant rules and procedures.

There is no evidence to support the claim that the acted inappropriately and failed “to grant justice” because of complainant’s difficulty understanding certain aspects of the law or the proceeding, and the allegation is therefore subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant further alleges that the judge “ignored several of my motions, except my Involuntary Motion to Dismiss Without Prejudice.”

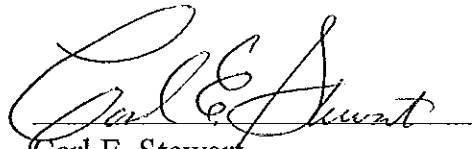
To the extent that the allegation relates directly to the merits of the judge’s decision not to rule on complainant’s motion for a hearing before granting her motion to dismiss, and to the implied decision not to rule on an email filed after the case was

dismissed, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertion of bias appears entirely derivative of the merits-related charges, but to the extent the allegation is separate, it is wholly unsupported, 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.

An order dismissing the complaint is entered simultaneously herewith.

March 5, 2019

  
Carl E. Stewart  
Chief Judge