

JUN 27 2019

FIFTH CIRCUIT
LYLE W. GAYCE, CLERKIN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Docket Numbers: 05-19-90080 through and 05-19-90082

M E M O R A N D U M

Complainant, a state prisoner, complains that his 28 U.S.C. § 2254 petition “sat for almost 3 years then I get a denial that clearly contradicts the record in every aspect [sic]!” He contends that the subject United States Magistrate Judge’s finding that the state court record “reflect[ed] a reasonable decision” constitutes evidence that the magistrate judge committed “fraud upon the court, defrauded the U.S. Government, obstructed justice, conspired to commit malfeasance in office, code of ethics, etc. ... lied to cover up for criminal judicial misconduct in my state court proceeding.” Regarding the subject United States District Judge’s adoption of the magistrate judge’s findings, complainant alleges that the judge “agree[d] ... that lying [sic] is the applicable law.”

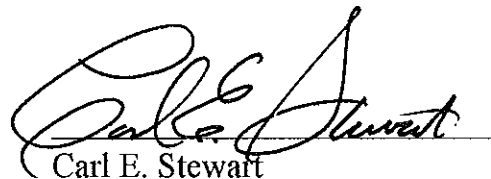
Complainant further asserts that in denying a certificate of appealability, the subject United States Circuit Judge “clearly us[ed] deceptive tactics, “word games” ... [and] intentionally disregard[ed] the facts presented ... to avoid admitting that [the subject district judge and the subject magistrate judge] intentionally conspired to cover for criminal judicial misconduct in my state court proceeding.” He also submits that the three subject judicial officers deliberately avoided convening an evidentiary hearing because it would “reveal that I am telling the truth.”

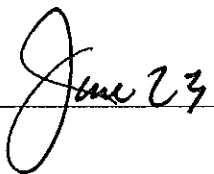
To the extent that the allegations relate directly to the merits of the judges’ and the magistrate judge’s decisions, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegations of conspiracy appear entirely derivative of the merits-related charges, but to the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

To the extent, if any, that complainant is alleging undue delay by the magistrate judge and/or the district judge in ruling on his habeas petition, a review of the docket indicates that although there is evidence of delay in the district court proceeding, complainant’s conclusory assertion that the delay was deliberate is insufficient to support a finding of judicial misconduct and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

An order dismissing the complaint is entered simultaneously herewith.


Carl E. Stewart
Chief Judge

 June 23, 2019

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FIFTH CIRCUIT
LYLE W. CAYGE, CLERK

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-19-90080 through 05-19-90082
Petition for Review by [REDACTED]
of the Final Order Filed June 27, 2019,
Dismissing Judicial Misconduct Complaint

Against [REDACTED]

Under the Judicial Improvements Act of 2002.

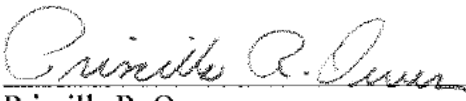
ORDER

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 June 27, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

9-4-2019
Date


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