

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS  
FIFTH CIRCUIT

JUN 27 2019

FIFTH CIRCUIT  
LYLE W. CAYCE, CLERK

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Docket Number: 05-19-90105

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MEMORANDUM

Complainant, a state prisoner, has filed a barely intelligible judicial misconduct complaint asserting that he “never requested Judge Magistrate [sic]” and “out of nowhere” the subject United States Magistrate Judge entered orders and a Report recommending dismissal of complainant’s prisoner civil rights action for failure to state a claim upon which relief may be granted.

A review of the record indicates that complainant did not consent to proceed before a magistrate judge pursuant to 28 U.S.C. 636(c)(1). However, it appears that preliminary matters were referred to the magistrate judge pursuant to 28 U.S.C. 636(b)(1)(A) and (B) which provides that a judge may designate a magistrate judge to hear and determine any non-dispositive pre-trial matter pending before the court, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition, by a judge of the court, of any motion excepted in subparagraph (A).

Complainant’s contention that the magistrate judge lacked jurisdiction to enter non-dispositive orders and a Report and Recommendation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant appears to further complain that the magistrate judge’s finding that his claims were factually and legally frivolous was “not true.”

The allegation relates directly to the merits of the magistrate judge’s finding and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

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

June 23, 2019

BEFORE THE JUDICIAL COUNCIL  
OF THE FIFTH CIRCUIT

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

SEP 05 2019

FIFTH CIRCUIT  
LYLE W. CAWCE, CLERK

No. 05-19-90105

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.**

September 4, 2019  
Date

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