

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

OCT 08 2019

Docket Number: 05-19-90139

FIFTH CIRCUIT
LYLE W. GAGE, CLERK

MEMORANDUM

Complainant, a state prisoner, complains that the subject United States District Judge dismissed his 42 USC § 1983 claims as frivolous and held that the defendant state judge “enjoy[ed] being immune from a 1983 lawsuit.” He further complains that the judge “sent [the defendant state judge] copies of the dismissed case” and thereafter the defendant state judge “mocked me in the [state] courtroom” and “bragged” about the dismissal. Complainant concludes that the summary dismissal of the lawsuit violated his due process rights and constitutes evidence of a conspiracy between the subject judge and the defendant state judge.

To the extent that the allegations relates directly to the merits of the judge’s decision, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegation of conspiracy 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) 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

September 30, 2019