

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS

FILED

OCT 08 2019

FIFTH CIRCUIT  
LYLE W. GAYE, CLERK

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Complaint Number: 05-19-90154

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M E M O R A N D U M

In a convoluted judicial misconduct complaint, complainant, a pro se litigant, appears to allege that the subject United States District Judge entered erroneous and biased decisions and procedural rulings in two lawsuits against different defendants but arising out of the same set of underlying facts.

Complainant asserts that in Case 1, the judge erroneously “dismissed [a defendant] when I just added [another defendant] to the complaint, and therefore to my discovery the defendant refused to answer because the cases [sic] was defective,” and “dismissed my case by adding four people to claim when there were just only two people in the complaint.”

Complainant complains that in Case 2, the judge: failed to describe her injuries and the treatment she received as set out in the medical records filed in support of her claims; made erroneous findings about the number of prior state and federal lawsuits complainant had filed against the defendant and, based on that error, admonished her that if she filed further duplicative claims she might be subject to Rule 11 sanctions including a prefiling injunction; and, incorrectly construed her Rule 60(b)(3) motion as a Rule 54(b) motion without “ask[ing] for clarification or allow[ing] me to answer so he could understand it.”

Complainant submits that the judge is “making too many bias[ed] decision[s] in my case[s] and cause me from [sic] having a fair trial of my due process.”

To the extent that the allegations relate directly to the merits of the judge’s decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. §

352(b)(1)(A)(ii). In other respects, the allegations of 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.

*September 30*, 2019

  
Carl E. Stewart  
Chief Judge

NOV 22 2019

FIFTH CIRCUIT  
LYLE W. CARROLL, CLERK

BEFORE THE JUDICIAL COUNCIL  
OF THE FIFTH CIRCUIT

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No. 05-19-90154  
Petition for Review by [REDACTED]  
of the Final Order Filed October 8, 2019  
Dismissing Judicial Misconduct Complaint  
Against [REDACTED]  
Under the Judicial Improvements Act of 2002.

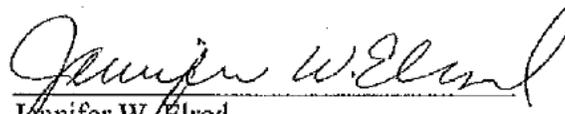
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ORDER

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 October 8, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore AFFIRMED.

11/21/19  
Date

  
Jennifer W. Elrod  
United States Circuit Judge  
For the Judicial Council of the Fifth Circuit