

OCT 07 2019

FIFTH CIRCUIT  
LYLE W. GAYGE, CLERK

JUDICIAL COUNCIL  
FOR THE FIFTH CIRCUIT

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Complaint Number: 05-20-90001

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MEMORANDUM

Complainant, a state prisoner, alleges that the subject United States Magistrate Judge erroneously and prejudicially denied his motions to appoint counsel, for discovery, for sanctions against the defendants, and to file papers with the judge under FRCP 5(d)(2)(B), and further violated his rights by not “even allow[ing] me to do admissions [or] interrogatories.” Complainant submits that these decisions amount to the magistrate judge’s “acting as an attorney for the defendant” and treating a litigant with “low IQ and mental health issues ... different to other litigants.”

To the extent that the complaint relates directly to the merits of the magistrate judge’s decisions or procedural rulings, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegation of prejudice against a litigant with “low IQ and mental health issues” 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.



Priscilla R. Owen  
Chief Judge

October 2, 2019