

FILED

June 5, 2020

Lyle W. Cayce
Clerk

**JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT**

Complaint Numbers: 05-20-90106 and 05-20-90107

M E M O R A N D U M

Complainant, a state prisoner, has filed a complaint alleging misconduct by the subject United States District Judge and the subject United States Magistrate Judge.

Complaint alleges that the magistrate judge “altered the original documentation” and docketed his motion for leave to file a Rule 60(b) motion in a 2010 proceeding instead of in a 2007 proceeding. He further complains that in adopting the magistrate judge’s recommendation that the motion should be denied, the judge failed to consider complainant’s “objection and submitted evidence.”

Complainant concludes that the judge and the magistrate judge engaged in “bias, prejudice, forgery, tampering with government documentation and altering documentation in an original proceeding” and demonstrated “incompetency and neglect of duty.”

To the extent that the allegations relate directly to the merits of 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, prejudice, record tampering, incompetence, and “neglect of duty” 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.



Priscilla R. Owen
Chief United States Circuit Judge

June 3, 2020