

FILED

April 13, 2021

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-21-90089

MEMORANDUM

Complainant, a pro se litigant and former federal prisoner, alleges misconduct by the subject United States District Judge in recent post-conviction proceedings.

Complainant complains that after he failed to appear for a scheduled hearing, the judge held the hearing in his absence and engaged in improper ex parte communication by instructing the Government to investigate claims in complainant's petition that he was a law student, a member of a State Bar, and had legally changed his name. He further submits that the judge's request for an investigation violated FED. R. EVID. 609(b) by using his conviction, which occurred more than ten years earlier, for impeachment purposes. He also contends that because the judge would not have requested an investigation absent his filing the petition, the request constituted "retaliation" against him "for participating in the judicial process."

To the extent that these 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 ex parte communication and retaliation appear entirely derivative of the merits-related charges, but to the extent the allegations are separate, they are wholly unsupported, and are 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

April 11, 2021