

FILED

June 15, 2021

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-21-90107 and 05-21-90108

MEMORANDUM

Complainant, a state prisoner, alleges misconduct by the subject United States District Judge and the subject United States Magistrate Judge in three civil proceedings.

Complainant alleges that:

- The magistrate judge “arbitrarily refused” complainant’s 117-page 42 U.S.C. § 1983 complaint and instructed complainant to file an amended complaint of no more than 30 pages.
- The judge and the magistrate judge “casually disregarded” and/or “eliminated” evidence in support of complainant’s claims, while “tak[ing] into account [defense counsel’s] flagrant, defaming and unsupported arguments” and “disparaging/discriminatory remarks about my claim.”
- The judge and the magistrate judge denied complainant’s discovery motions.
- The judge “illegally eliminate[d] parties before a formal discovery [could] be performed to show harm(s).”
- The judge has “evaded” ruling on complainant’s motion(s) alleging ineffective assistance of counsel and seeking appointment of new counsel.

- The judge has taken no action regarding complainant’s claims that the clerk’s office “refuse[d]” or “los[t] instruments filed by me” and failed “to notify me of receipt of instruments.”
- The judge allowed defense counsel to provide only partial disclosure of medical records and failed to sanction defense counsel for purportedly violating HIPPA.
- The judge allowed the magistrate judge to “rule on motions outside his Realm of Authority.”
- The judge “refuses to investigate” complainant’s claims that prison officials interfered with his legal mail and denied him access to the courts by limiting access to legal materials.
- The judge and the magistrate judge have “practice[d] law” and “practic[ed] partisan politics” in favor of the defendants “because the State . . . [is] an extension of the United States of America District of Columbia Corporation (“Government”).”
- The judge “and his cohort” have engaged in discrimination against complainant, a pro se prisoner litigant, by “tenaciously den[ying]” his due process right to have his claims brought before a jury.
- The judge warned complainant that continuous filing of frivolous motions would delay the adjudication of his habeas claims.

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, any assertions of bias and discrimination 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.”

Complainant’s additional allegation that the judge “refuses to implement” the Fifth Circuit’s May 2020 order of remand is construed as an allegation of undue delay.

A review of the underlying docket indicates that there is no evidence of delay and the case is proceeding normally on remand, and the allegation is therefore subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii).

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 10, 2021