

FILED

August 12, 2021

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-21-90140

MEMORANDUM

Complainant, a state prisoner, has filed a complaint and a supplemental complaint against the subject United States District Judge regarding his pending pro se civil rights action.

Complainant argues that “on more occasions than one,” the judge erroneously denied his motions to reinstate his case on the court’s active docket, and that those denials “did not honor rules prescribed by Federal Rules of Civil Procedure” and showed that the judge did not “maintain a proper code of ethic.”¹ He further argues that the judge committed misconduct by denying his motions to amend his complaint, to compel discovery, to serve a second set of interrogatories, and to appoint counsel.

These allegations relate directly to the merits of rulings or procedural decisions and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii), even if those rulings were incorrect.

¹ I note that the judge has since entered an order granting complainant’s Rule 59(e) motion and reinstating the case on the active docket, and that the case is currently active.

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

_____ August 11, _____, 2021