

FILED

February 4, 2022

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-22-90035 and 05-22-90036

MEMORANDUM

Complainant, a pro se litigant, has filed a convoluted complaint alleging misconduct by the subject United States Magistrate Judge in Case A and by the subject United States District Judge in Case B.

Case A

Complainant appears to complain that the magistrate judge recommended that his claims be dismissed for lack of subject matter jurisdiction because the case “needed to [be filed in] the Fifth Circuit which I knew but thought I could get a judge to sign it to go to En Banc.” He seems to further object that the magistrate judge erroneously found that he had not provided sufficient facts for the court to evaluate (and affirm) his claims of discrimination and fraud.

The allegations relate directly to the merits of decisions or procedural rulings and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Case B

— Background

The judge dismissed complainant’s claims for lack of subject matter jurisdiction and, noting that this was complainant’s third district court

lawsuit against the same defendants, the judge admonished complainant that further duplicative and meritless filings would result in monetary sanctions. Two weeks later, the judge repeated the admonition in an order denying complainant's motion to reopen the case. After complainant filed multiple motions for default judgment, the judge granted the defendant's motion and imposed a \$5,000 sanction. A month later, the judge denied complainant's motion to "continue a fraud case," and barred him from filing any further pleadings until the \$5,000 sanction was paid in full.

In the instant complaint, complainant states that he then sought legal advice from a county district attorney and an FBI agent regarding whether the court could sanction him (further) for pursuing a claim of fraud against the defendant after the case was dismissed for lack of subject matter jurisdiction. He reports that the attorney and the agent advised him that the court would not sanction him. After paying the \$5,000 sanction in full, complainant filed several motions seeking sanctions against the defendant for alleged fraud.

— *Allegations*

Complainant appears to complain that contrary to the advice he received, the judge granted the defendant's motion and "did sanction me \$10,000, as I was afraid of. I have no way to pay the sanctions, why does he keep sanctioning me[?]"

The allegation relates directly to the merits decisions or procedural rulings and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

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

February 2, 2022