

FILED

June 9, 2022

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-22-90064

MEMORANDUM

Complainant, a pro se litigant, has filed a complaint alleging misconduct by the subject United States District Judge in his pending civil action against Corporation A.

Complainant moved for the judge's recusal based on the judge's ownership of stock in Corporation B, and news reports describing joint business dealings between Corporation B and Corporation A. The judge denied the motion, noting that neither the judge nor the judge's spouse had ever held any interest in Corporation A, and that the alleged business dealings did not establish an "interest that could be substantially affected by the outcome" of complainant's suit. Complainant's misconduct complaint asserts that the judge should have recused.

Allegations that a judicial officer erred in failing to recuse are generally subject to dismissal as merits-related under 28 U.S.C. § 352(b)(1)(A)(ii). "A failure to recuse may constitute misconduct only if the judge failed to recuse for an improper purpose." *In re Judicial Misconduct*, 605 F.3d 1060, 1062 (9th Cir. Jud. Council 2010). Complainant has presented no evidence that the judge had an improper purpose in not recusing, and the allegation 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.

/s/ Priscilla Richman
Priscilla Richman
Chief United States Circuit Judge

June 7, 2022