

FILED

November 30, 2022

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-22-90104

MEMORANDUM

Complainant, a state prisoner, repeats allegations raised, and dismissed, in a prior complaint against the subject United States District Judge, i.e., that the judge's erroneous and improper decision construing complainant's 28 U.S.C. § 2254 claims as 42 U.S.C. § 1983 claims and ordering the deduction of filing fees from complainant's inmate trust account constitute evidence of bias and racism.

These repetitive allegations are subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii).


Complainant further alleges that the judge "forced me to say I wanted [monetary damages]," erroneously and improperly dismissed his lawsuit with prejudice for failure to state a claim pursuant to 28 U.S.C. § 1915(e), and ordered the Clerk to count the dismissal as a strike for the purposes of 28 U.S.C. § 1915(g). He also asserts that the judge "harass[ed] me and misus[ed] his court's authority to do what I don't see to be right," "sid[ed] with the [defendants], "tamper[ed] with my claims," and "forc[ed] [me] to endure hardship and racial suppression." In addition, complainant proposes that the judge's (alleged) misconduct "may be [due] to a personal problem in his mental [sic]."

To the extent that these allegations relate directly to the merits 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 harassment, abuse of

judicial authority, and mental disability 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” or that the judge is suffering from a mental disability.

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 Richman
Chief United States Circuit Judge

November 29, 2022

FILED

March 10, 2023

Lyle W. Cayce
Clerk

**Before the Judicial Council
of the Fifth Circuit**

Complaint Number: 05-22-90104

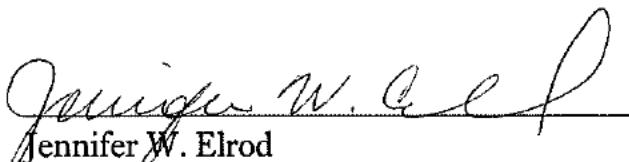
Petition for Review by [REDACTED]
of the Final Order Filed November 30, 2022,
Dismissing the Judicial Misconduct Complaint Against
[REDACTED]
Under the Judicial Improvements Act of 2002.

ORDER

An Appellate Review Panel of the Judicial Council for the Fifth Circuit has reviewed the above-captioned petition for review, and all the members of the Panel have voted to affirm the order of Chief United States Circuit Judge Priscilla Richman, filed November 30, 2022, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

March 9, 2023
Date


Jennifer W. Elrod
United States Circuit Judge
For the Judicial Council of the Fifth Circuit