

FILED

March 15, 2023

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-22-90106 and 05-22-90107

MEMORANDUM

Complainant, a state prisoner, has filed a complaint alleging misconduct by the subject United States District Judge and the subject United States Magistrate Judge in a pending 42 U.S.C. § 1983 proceeding.¹

Complainant claims that the judge, the magistrate judge, and “over half of the Defendants” are “members/supporters of the Republican Party.” He alleges that, “based on their political affiliation or political alliance with the Republican Party/familial relationships/ friendships/etc.,” the judge and the magistrate judge:

- “have tried to keep secret unlawfully” the Defendants’ “felony crimes & malicious prosecution,” obstruction of justice, and denial of complainant’s rights;
- “have been making decisions/rulings in favor of the Defendants because of what very strongly seems to be evil intentions and evil/improper motives”; and,
- “seem to be deliberately violating me & my disabilities under the Americans with Disability Act/leaving me in physical

¹ Complainant also refers to a second case that is not assigned the subject judges. Complainant’s allegations of misconduct in that case appear to be aimed at the Defendants and are therefore not cognizable under 28 U.S.C. §§ 351-364.

danger/blocking my TROs & Preliminary Injunctions/obstructing summons & justice/treating me with hostility and negativity.”

Complainant claims that a district attorney—“is very likely [to] end up being one of my Defendants (yet to be named)”—is a “member/supporter of the Republican Party.” Noting that the magistrate judge and the district attorney share the same surname, complainant asserts that, “based on their political affiliation or political alliance with the Republican Party/familial relationships/ friendships/etc.,” the judge and the magistrate judge “have deliberately failed to report or disclose the [familial] relationship” which “very directly interferes with my petition, access to courts, and due process rights.”

Complainant submits that because the judge and the magistrate judge “have been making decisions/rulings that are so bad[,] it seems like they have some sort of major mental impairment or disability that makes it where they can’t even do their judicial duties properly.”

To the extent that the 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). The repetitive allegations about failure to disclose a purported familial relationship and intentional discrimination are subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii). In other respects, any assertions of favoritism based on political affiliation, “evil intent,” 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 subject judges are 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.

This is complainant's third complaint in less than five months regarding the same proceeding, and he has repeated allegations made and dismissed in the first complaint and allegations that are pending in the second complaint. The filing of repetitive complaints is an abuse of the complaint procedure. Complainant is WARNED that should he file a further merits-related, conclusory, frivolous, or repetitive complaint, his right to file complaints may be suspended and, unless he is able to show cause why he should not be barred from filing future complaints, the suspension will continue indefinitely. *See* Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.

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

March 13, 2023