

FILED

March 15, 2023

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-22-90116

MEMORANDUM

Complainant, a state prisoner, alleges misconduct by the subject United States District Judge in 42 U.S.C. § 1983 proceeding.

Complainant complains that the judge: denied his motion for reconsideration of an order denying his application to proceed in forma pauperis; has not ruled on his Motion to Reinstate (filed in May 2022), Rule 60(b)(1) motion (filed in May 2022), and Motion for Entry of an Order (filed in June 2022) requesting a ruling on the two prior motions; and has not responded to his letter inquiring about the status of the Motion for Entry of an Order. Complainant surmises that the judge “was behind” the clerk’s failure to respond to his additional letters inquiring about the status of the motions, and he concludes that the judge “has had from the very start of my civil suit a bias and/or prejudice toward[s] me and my civil suit.”

To the extent that these allegations relate directly to the merits of decisions or procedural rulings, including the judge’s implied decision not to respond to complainant’s letter, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the conclusory assertions that the judge has deliberately delayed ruling on the motions, instructed clerk’s office personnel not to respond to complainant’s inquiries about the status of the motions, and has been biased “from the very start,” are 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.”

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

March 13, 2023