

FILED

November 1, 2023

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-23-90061

MEMORANDUM

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

The judge dismissed complainant's § 1983 suit with prejudice for failure to articulate a viable claim, and subsequently denied complainant's Rule 60(b) motion for relief from final judgment.

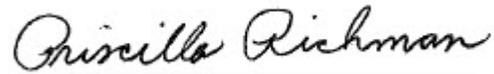
Complainant complains that "it seems that [the judge] has directly told me that I am not entitled to a lawsuit under the United States Constitution (in his courtroom)." He further complains that the judge did not "take the opportunity or the time to even allow me to file a subpoena for [state criminal] court documents which would prove "Malicious Prosecution" [and], even though [the judge] has the power to look up [the state case], . . . he did not do so or did not want to do so." Complainant alleges that the judge's conduct "was very biased" and violated his Fifth Amendment rights.

To the extent that the complaint relates directly to the merits of decisions or procedural rulings, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertion of bias appears entirely derivative of the merits-related charges, but to the extent the allegation is separate, it is wholly unsupported and is 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.”

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

October 30, 2023