

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS  
**FILED**

JAN 16 2019

FIFTH CIRCUIT  
LYLE W. CAYCE, CLERK

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Docket Number: 05-18-90127

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MEMORANDUM

Complainant, a state prisoner, complains that when he filed a 42 U.S.C. § 1983 complaint “showing the court a good chance of cause of action,” the subject United States Magistrate Judge found complainant’s handwriting “virtually illegible” and ordered him to resubmit it in legible form, but when “when I hurt myself and turned away from an [sic] lack of courage” by filing a motion to dismiss without prejudice, the magistrate judge “understood this, it was legible.” In support of this contention, complainant has submitted a “copy” of the motion to dismiss, seemingly attempting to prove that the handwriting on, and format of, the two documents was similar. However, a review of the record shows that the “copy” complainant has provided does not match the motion filed in the record which has a different format and larger, clearer handwriting. The version of the motion complainant has provided appears to have been fabricated to bolster his allegations.

Complainant further protests that the magistrate judge ordered him to resubmit his § 1983 complaint in legible form without investigating “my medical condition as to why my handwriting is so bad.”


To the extent that the allegations relate directly to the merits of the magistrate judge’s decisions, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the assertion that the magistrate judge’s decisions were intentionally aimed at undermining complainant’s § 1983 claims is belied by the very evidence complainant submitted in support of the assertion, and is therefore subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii).

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 fourth merits-related and/or frivolous judicial misconduct complaint, and he has been warned previously against filing further merits-related, conclusory, or frivolous complaints. Furthermore, complainant's submission of a fabricated document in support of his allegations is an abuse of the complaint process. Complainant's right to file complaints is hereby SUSPENDED pursuant to Rule 10(a), Rules For Judicial-Conduct or Judicial-Disability Proceedings. He may show cause, through a petition for review submitted pursuant to Rule 18, why his right to file further complaints should not be so limited.

An order dismissing the complaint is entered simultaneously herewith.

 , 2018

  
Carl E. Stewart  
Chief Judge

FEB 28 2019

FIFTH CIRCUIT  
LYLE W. CAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL  
OF THE FIFTH CIRCUIT

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No. 05-18-90127

Petition for Review by [REDACTED]  
of the Final Order Filed January 16, 2019,  
Dismissing Judicial Misconduct Complaint  
Against [REDACTED]  
Under the Judicial Improvements Act of 2002.

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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 Judge Carl E. Stewart, filed January 16, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

**AFFIRMED IN ALL RESPECTS.**

2-22-2019  
Date

  
Priscilla R. Owen  
United States Circuit Judge  
For the Judicial Council of the Fifth Circuit