

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

Docket Numbers: 05-19-90026 through 05-19-90028

FEB 22 2019

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

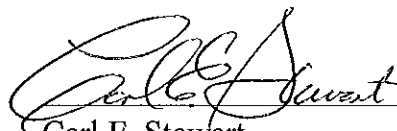
MEMORANDUM

Complainant, a state prisoner, complains that in denying his motion for a certificate of appealability, the three subject United States Circuit Judges erroneously held that the court lacked subject matter jurisdiction “as the result of the grant of permission to appeal [in forma pauperis] not being certified [by the district court].” He further alleges that by construing his petition for rehearing en banc as a petition for panel rehearing and by denying the petition in “an undated decision,” the judges “misuse[d] their judicial adjudicative responsibilities,” violated the Federal Rules of Appellate Procedure, and “unlawfully disregarded ... the U.S. Constitutional 14th Amendment, and the Code of Judicial Conduct.” Complainant concludes that the judges’ “racially motivated” adverse rulings “show the disparage [sic] treatment of black offenders within the judiciary.”

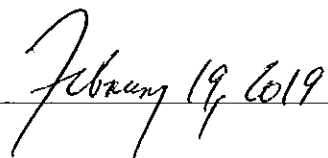
To the extent that the allegations relate directly to the merits of the judges’ decisions they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the assertions of racial bias and abuse of judicial power appear entirely derivative of the merits-related charges, but to the extent these 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.”

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.



Carl E. Stewart
Chief Judge



February 19, 2019