

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

FEB 22 2019

Docket Numbers: 05-19-90030 and 05-19-90031

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

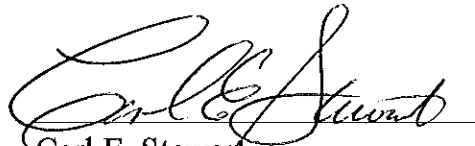
MEMORANDUM

Complainant, a state prisoner, has filed a convoluted judicial misconduct complaint in which he appears to allege that the subject United States Magistrate Judge failed to recuse himself sua sponte despite a purported conflict of interest in being assigned to complainant's civil action against Defendant A while simultaneously being assigned to Defendant A's criminal proceeding. He further complains that despite his bringing the conflict of interest to the attention of the subject United States District Judge, the judge failed to order the magistrate judge to recuse himself. Complainant also asserts that the judge's denial of his motion for reconsideration of the court's order of partial dismissal of his civil rights claims, including his claims against Defendant A, was a "personal bias ruling ... favor[ing] the defendant." He posits that the judge and the magistrate judge "appear to suffer[s] the disabilities of the lack of mental capacity to act sure in sui juris or [are] physical[ly] disable[d]."

To the extent that the allegations relate directly to the merits of the judge's and the magistrate judge's decisions, including the implicit decision not to recuse sua sponte, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the assertions of bias and of mental or physical 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).

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.

February 18, 2019


Carl E. Stewart
Chief Judge

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

APR 03 2019

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

No. 05-19-90030 and 05-19-90031

Petition for Review by [REDACTED]
of the Final Order Filed February 22, 2019,
Dismissing Judicial Misconduct Complaint

Against [REDACTED]

Under the Judicial Improvements Act of 2002.

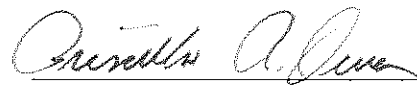
ORDER

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 February 22, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

3-29-2019
Date


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