

FEB 11 2020

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT

Complaint Number: 05-20-90032

M E M O R A N D U M

Complainant, a pro se litigant, complains that in an opinion entered in a lawsuit challenging a Social Security Administration denial of benefits to complainant's minor daughter, the subject United States District Judge "discriminat[ed] against my daughter he stated that because she was never held back in school or been placed in special education that she is not disabled."

The allegation relates directly to the merits of a decision or procedural ruling and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant further complains that the judge "accuse[d] me of portraying [sic] to be two different women involved in my child's case, lying and misleading the court and lying to the hearing officer. Which is not true at all and I don't know where he came up with that insulting information." Complainant states she notified the Social Security Administration of her name change, and she showed her driver's license to the district court clerk when she filed her suit.

To the extent, if any, that complainant is complaining that the judge did not thoroughly review the case record, this aspect of the complaint relates directly to the merits of a decision or procedural ruling, and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

In other respects, complainant's showing her driver's license to the clerk does not necessarily mean that the court received formal notice of her

name change, and complainant has not pointed to a particular document in the record that would have alerted the judge to that fact. The judge's comments, while appearing unnecessary to his final conclusion in the case and possibly gratuitous—at least to complainant—do not demonstrate misconduct and 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.” *See, Liteky v. United States*, 510 U.S. 540, 551 (1994) (“The judge who presides at a trial may, upon completion of the evidence, be exceedingly ill disposed towards [a litigant] . . . But the judge is not thereby recusable for bias or prejudice, since his knowledge and the opinion it produced were properly and necessarily acquired in the course of the proceedings . . .”).

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 R. Owen
Chief United States Circuit Judge

February 8, 2020