

**FILED**

August 6, 2020

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-20-90125

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## MEMORANDUM

Complainant, a state pretrial detainee, alleges that the subject United States District Judge’s dismissal order, entered July 1, 2020, in complainant’s prisoner civil rights proceeding: contains “numerous manifest errors of fact and legal conclusions”; “intentionally used the wrong standard of review”; “used the wrong controlling law”; and, “did not consider some of my claims.” He further complains that the judge erroneously construed his “Motion to Amend Findings of Fact and Conclusions of Law” as a Rule 59(e) motion. Complainant concludes: “There is no doubt this Judge is unfair, partial, and improper [sic].”

To the extent that these allegations relate directly to the merits of decisions or procedural rulings, they are 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.

This is complainant’s second merits-related and conclusory judicial misconduct complaint regarding the same proceeding. Complainant is

WARNED that should he file a further merits-related, conclusory, frivolous, or repetitive complaint, his right to file complaints may be suspended and, unless he is able to show cause why he should not be barred from filing future complaints, the suspension will continue indefinitely. See Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.



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Priscilla R. Owen  
Chief United States Circuit Judge

August 4, 2020