

**FILED**

November 10, 2020

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-20-90144

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## MEMORANDUM

Complainant, a federal prisoner, alleges that the subject United States District Judge’s erroneous and improper adoption of the magistrate judge’s Findings, Conclusions, and Recommendation constitute “clear and conv[i]ncing evidence that [the judge is] conspiring with the magistrate [judge] by unconstitutionally applying or abusing the use of 1915(g) to deliberately shut [me] out of court and affirmatively immun[i]ze” the defendants.

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 assertions of conspiracy and bias 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) 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 third merits-related and conclusory judicial misconduct complaint in less than a month, and his second 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

November 8, 2020