

FILED

February 5, 2021

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-21-90028

MEMORANDUM

Complainant, a former state prisoner, alleges misconduct by the subject United States District Judge in complainant's 42 U.S.C. § 1983 proceeding.

Complainant alleges that in dismissing his 42 U.S.C. § 1983 action, the judge demonstrated "intolerable discretion" and "hubris" in agreeing with "three nurse practitioners over six specialist MDs who "absolute[ly] concurre[d]" with complainant's claims about the injuries he sustained. He further asserts that the judge "altered/obscured" the content of "eight grievances (govt documents)," and thereby "further attempt[ed] to obscure the monumentally predicated truth, stare decisis . . . or even refusal to acknowledge irrefutable evidence." He also complains that the judge has unduly delayed ruling on his Rule 60(b) motion. Complainant submits that the judge's misconduct is "contributory to this two plus year conspiracy" and "exemplif[ies] bastardizing forsworn obligation and Constitutionally endowed responsibility."

To the extent that these allegations relate directly to the merits of the judge's decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). To the extent that complainant alleges undue delay in ruling on his Rule 60(b) motion filed on May 21, 2020, the docket records that an order dismissing the motion was entered on May 29, 2020 and the allegation is therefore subject to dismissal as frivolous under 28

U.S.C. § 352(b)(1)(A)(iii). In other respects, the conclusory assertions of record tampering and conspiracy are insufficient to support a finding of judicial misconduct and are 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.



Priscilla R. Owen
Chief United States Circuit Judge

February 4, 2021

FILED

May 12, 2021

Lyle W. Cayce
Clerk

Before the Judicial Council of the Fifth Circuit

No. 05-21-90028

Petition for Review by [REDACTED], of the Final Order
filed February 05, 2021, dismissing the 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 Priscilla R. Owen, filed February 05, 2021, dismissing the Complaint against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

April 22, 2021
Date

Jennifer W. Elrod
Jennifer W. Elrod

United States Circuit Judge

For the Judicial Council of the Fifth Circuit