

FILED

March 12, 2021

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-21-90069 through 05-21-90076

MEMORANDUM

In a barely intelligible complaint, complainant, a pro se litigant, alleges misconduct by three United States Circuit Judges, four United States District Judges, and a United States Magistrate Judge.

Complainant alleges that in Civil Case 1, District Judge A erroneously held that complainant's claims were time-barred under 15 U.S.C. § 1640(e), and that thirteen months after the case was closed, the judge improperly entered an order striking complainant's motion to compel his disqualification "for fraud."

Complainant complains that the three United States Circuit Judges erroneously denied his petition for a writ of mandamus.

Complainant asserts that in Civil Case 2, District Judge B erroneously dismissed his Federal Tort Claims Act action against the United States, the Southern District of Texas, and United States District Judge A.

In Civil Case 3, District Judge B allegedly improperly entered a scheduling order in a matter in which she was a named defendant. (The docket records that, on the same date, the judge recused herself.) The case was reassigned the case to District Judge C who, complainant protests, improperly adopted the erroneous recommendations of the subject Magistrate Judge, dismissing complainant's claims with prejudice for failure to state a claim upon which relief could be granted, precluding complainant from filing anything further in the case, and also precluding him from filing

subsequent litigation in the district court without first obtaining leave from the chief judge or the chief judge's designee.

Complainant submits that District Judge D, who does not appear to have participated in any of the underlying district court proceedings, entered an "unsigned preclusion."

Complainant concludes that these adverse and erroneous rulings constitute evidence of "negligent predicate over acts warring [sic] fraudulently falsifying" and "misrepresent[ing]" the statute of limitations under 15 U.S.C. § 1601 *et seq.*, and "criminal conduct," e.g., violations of 18 U.S.C. § 371 (conspiracy to commit an offense or to defraud the United States), 18 U.S.C. § 1519 (destruction, alteration, or falsification of records in Federal investigations and bankruptcy), and 18 U.S.C. § 1961 (racketeering).

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 criminal conduct 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.

An order dismissing the complaint is entered simultaneously herewith.



Priscilla R. Owen
Chief United States Circuit Judge

March 11, 2021

FILED

April 8, 2021

Lyle W. Cayce
Clerk

Before the Judicial Council of the Fifth Circuit

No. 05-21-90069 through 05-21-90076
Petition for Review by Rev. Wesley Wilson, of the Final Order
filed March 12, 2021, dismissing the Judicial Misconduct
Complaint against Chief United States District Judge Lee H.
Rosenthal, Senior United States District Judges Kenneth M.
Hoyt and David Hittner, United States District Judge Andrew S.
Hanen, and United States Magistrate Judge Peter J. Bray,
Southern District of Texas,
and United States Circuit Judges Catharina Haynes,
Gregg J. Costa, and James C. Ho,
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 March 12, 2021, dismissing the Complaint against Chief United States District Judge Lee H. Rosenthal, Senior United States District Judges Kenneth M. Hoyt and David Hittner, United States District Judge Andrew S. Hanen, and United States Magistrate Judge Peter J. Bray, and United States Circuit Judges Catharina Haynes, Gregg J. Costa, and James C. Ho, under the Judicial Improvements Act of 2002.

The Order is therefore **AFFIRMED**.

April 8, 2021
Date

Jennifer W. Erod
Jennifer W. Erod
United States Circuit Judge
For the Judicial Council of the Fifth Circuit