

FILED

April 5, 2023

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-23-90017

MEMORANDUM

Complainant, a pro se bankruptcy litigant, has filed a complaint alleging misconduct by the subject United States Bankruptcy Judge in an adversary proceeding.

Complainant alleges that the judge’s “widespread sealing of my docket filings” and denial of complainant’s request for certification to the Fifth Circuit for direct review—an order which “threatened” complainant that he might be subject to sanctions if he filed further such requests—constitutes evidence that the judge “doesn’t want the constitutional questions presented to be heard or seen . . .by the [Fifth Circuit]” and demonstrates an “intent to impede my ability to mount this appeal.”

Complainant further asserts the judge improperly and prejudicially transmitted a copy of the “threatening” order to the district court clerk for filing in his pending appeal “to intimidate me into not seeking certification to the [Fifth Circuit]” and “to mislead the district court into denying” any request for certification to the Fifth Circuit for direct review that he might file in that proceeding.

Complainant protests that the judge’s “abuse of the docket and misappropriation of my filings . . . [violate] my right to access the courts.”

To the extent that the complaint relates directly to the merits of decisions or procedural rulings, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertions of intimidation, abuse of the docket, and misappropriation of filings 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 Richman

Chief United States Circuit Judge

April 5, 2023