

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

OCT 08 2019

Complaint Numbers: 05-19-90145 through 05-19-90147

FIFTH CIRCUIT
LYLE W. CAVE, CLERK

MEMORANDUM

Complainant, a state prisoner, complains that based on his reading of the 28 U.S.C. § 2254 application filed by a fellow prisoner [Prisoner A] and the court's order denying relief, the three subject United States Circuit Judges "must suffer from a mental defect" because they misunderstood and/or "misquoted" the applicant's claims. He further alleges that the judges "appl[ied] the wrong law in their ruling," imposed an "illegal fine sanction," and "threaten[ed] [Prisoner A] when they are the ones in the wrong."

To the extent that the allegations relates directly to the merits of the judges' decisions, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegation of "mental defect" appears entirely derivative of the merits-related charges, but to the extent the allegation is separate, it is insufficient to support a finding of mental disability and is therefore 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.

The undersigned notes that this is the second complaint filed in seven days alleging judicial misconduct and mental disability in cases filed by Prisoner A. Under Rule 23(b)(1), complaint proceedings are confidential and must not be publicly disclosed except "when necessary or appropriate to maintain public confidence in the judiciary's ability to redress misconduct or disability." The undersigned finds that abuse of the complaint procedure is such an exception and warrants disclosure of Prisoner A's complaint history.

Between 2000 and 2009, Prisoner A filed four complaints, in three of which he alleged that judicial officers who issued adverse rulings in his cases suffered from "mental

disability” or “brain damage.” In an order entered in August 2009, then-Chief Judge Edith H. Jones suspended Prisoner A’s right to file further complaints, a decision affirmed by the Judicial Council in an order entered in September 2009.

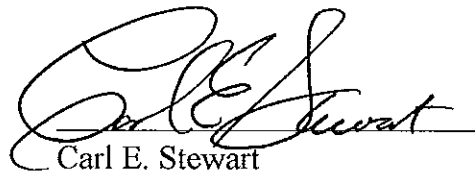
The following factors indicate that Prisoner A is attempting to circumvent the bar order by orchestrating the filing of complaints about his cases by his fellow prisoners:

- Prisoner A and the two prisoner-complaints are housed in the same section of the prison.
- Each prisoner-complainant states he has read Prisoner A’s pleadings and the courts’ orders in the relevant case.
- In an “emergency judicial notice” docketed on August 1, 2019 in the district court proceeding underlying the other recent complaint, Prisoner A threatened “to file a complaint to ... 5th Circuit Chief Judge for an investigation” of the court’s delay in ordering service on the defendants.
- The allegations of mental illness/defect made by the prisoner-complainants are strikingly similar to those made by Prisoner A.

Prisoner A’s attempt to circumvent the bar order is an abuse of the complaint process and, pursuant to Rule 10(b), I recommend that the judicial council issue an order instructing the clerk to refuse to accept additional orchestrated complaints regarding Prisoner A’s cases.

An order dismissing the complaint is entered simultaneously herewith.

September 30, 2019


Carl E. Stewart
Chief Judge

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FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-19-90145 through 05-19-90147

Petition for Review by [REDACTED]
of the Final Order Filed October 08, 2019,
Dismissing Judicial Misconduct Complaint
Against [REDACTED]
Under the Judicial Improvements Act of 2002.

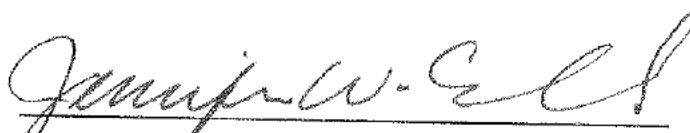
ORDER

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 Carl E. Stewart, filed October 08, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

Nov. 4, 2019
Date


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