

FILED

May 7, 2020

Lyle W. Cayce
Clerk

**JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT**

Complaint Numbers: 05-20-90055 and 05-20-90056

M E M O R A N D U M

Complainant, a pro se litigant, has filed a largely unintelligible complaint alleging “egregiously-unlawful misconduct” by the subject United States District Judge before whom his Federal Tort Claims Act action is pending. For example, complainant alleges the judge:

- is engaged in a “cognizable conspiracy intent of omitted notification of lost interest to investigate [my] Federal Tort Claims Act injury claims . . . adjacent the Federal Question Act injury claims”;
- failed to convene a hearing on Williams’s motion for partial summary judgment and failed to grant his multiple motions for default judgment;
- permitted the clerk to deny those motions; and,
- has unduly delayed ruling on “[t]he overall pending procedure’s effective and administrative merit contentions’ [sic] adjudication requests.”

Complainant alleges that the subject Chief United States District Judge’s “failure disclosure” in the case—which is not assigned to the chief judge—“ensured non-delegated inaction for an express declaratory sectional precedence transfer decree entering, or other administrative means for ensuring appropriate justice, in the assumed obligated aligned proceeding’s protraction prevention resolution.”

Complainant further asserts that the district judge and the chief judge violated “the sworn oath statute” through “their failure inaction of administering the applicable constitutional, federal statute, and procedural law provisions extrinsic to arbitrarily exercising due care of [my] invoked civil claims.”

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 assertion of conspiracy appears entirely derivative of the merits-related charges, but to the extent the allegation is separate, it is wholly unsupported, and is 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.”

Pursuant to Rule 4(b)(2) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings, an allegation about delay in rendering a decision or procedural ruling is not cognizable misconduct “unless the allegation concerns an improper motive or habitual delay.” Because complainant’s assertion of improper motive is entirely conclusory, and because there is no evidence of habitual delay, there is insufficient evidence to raise an inference that misconduct has occurred, and the allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

To the extent, if any, that complainant is alleging that the district judge and the chief district judge improperly influenced the other district judge to transfer the cases, the allegation is also 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 fourth complaint against judges of the same district court, and he has been warned previously against filing a further merits-related, conclusory, or frivolous complaint. Complainant's right to file complaints is hereby **SUSPENDED** pursuant to Rule 10(a), Rules For Judicial-Conduct and Judicial-Disability Proceedings. Complainant may show cause, through a petition for review submitted pursuant to Rule 18, why his right to file further complaints should not be so limited.

An order dismissing the complaint is entered simultaneously herewith.



Priscilla R. Owen
Priscilla R. Owen
Chief United States Circuit Judge

May 6, 2020