

FILED

March 15, 2023

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-22-90108 and 05-22-90109

MEMORANDUM

Complainant, a pro se litigant, alleges misconduct by the subject United States District Judge in two 42 U.S.C. § 1983 proceedings, and by the subject United States Circuit Judge in a related appeal.

Case 1 and related Appeal

Complainant complains that the district judge denied her Motion for Appointment of Investigator and Special Prosecutor and, despite her paying “the filing fees for a jury trial,” he “never held one hearing after multiple requests and filing” and “prematurely dismiss[ed] [the] suit.” She alleges that the judge was biased in favor the Defendants and “retaliated against me giving me a strike [under 28 U.S.C. § 1915(g)] ... for [my] exercising [my] legal rights for a resolution in his court of law.” Complainant further complains that the district judge ignored her request to refund the filing fees which, she argues, constitutes “theft of [my] money for him not providing the judicial professional services [I am] entitled to.” She also protests that the dismissal of her lawsuit caused her to “incur financial harm having to appeal.” Complainant concludes that the district judge “collud[ed] in civil rights violations not upholding the constitution [sic] laws of the United States. Oath of Office. False imprisonment/right to bail. Obstruction/retaliation/interference in child custody/theft/trespassing.”

On appeal, the subject circuit judge ordered that complainant’s motions for appointment of counsel, to amend the caption, and for release and custody of her children be carried with the case, a decision that complainant alleges

“obstructed appeal petition from appeal petition [sic] to appeal panel to collude w[ith] [the district judge’s] misconduct violating my rights in this case causing me secondary harm denying me justice and immediate relief I’m entitled [sic].”

Case 2

Complainant complains that the district judge “prematurely dismissed the lawsuit without hearing or overseeing a jury trial that [I] paid the professional legal fees for. Once [I] requested a refund, he withheld the money being theft of legal fees for not providing the requested services to [me] being bias discriminating against [me] for exercising [my] rights for legal relief in his court. Colluding in the obstruction/retaliation/civil rights violations of [me].”

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 bias, discrimination, retaliation, and collusion 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.

/s/ Priscilla Richman
Priscilla Richman
Chief United States Circuit Judge

March 13, 2023