

FILED

April 5, 2023

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-23-90001

MEMORANDUM

Complainant, a former federal prisoner, has filed a barely intelligible complaint alleging misconduct by the subject United States District Judge in a 28 U.S.C. § 2255 proceeding.

Complainant appears to complain that the judge did not notify him that the underlying 2013 criminal case was assigned to his docket in 2018. He further asserts that in dismissing the § 2255 motion for untimeliness, the judge “did not order a hearing on the allegations,” “summarily refused to issue a writ of habeas corpus,” and intentionally ignored the trial judge’s errors because he “[did] not want to cease to desist using the Court to harassing [sic] me. [E]verybody knows that people from [State X] are racist, BUT HE IS PESTER [sic] ME.”

Complainant appears to also allege that in an order transferring the case to another jurisdiction where complainant is serving his term of supervised release, the judge altered the conditions of his supervised release—i.e., changed the *non-reporting* supervised release to “three years supervision by probation officer”—and did so without a hearing. He contends that this (purported) alteration of his supervised release constituted an abuse of judicial authority, and “[u]nlawful intimidation and retaliation by contacting [Probation Officer] to carry on underhand and improper

negotiations (as by bribery), with the goal of influencing [me] with threats of intimidation, to suffer physical harm, with corrupt persuasion.”

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, the allegations of harassment, racism, intimidation, retaliation, and bribery 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.

This is complainant’s third merits-related judicial misconduct complaint. Complainant is WARNED that should he file a further merits-related, conclusory, frivolous, or repetitive complaint, his right to file complaints may be suspended and, unless he is able to show cause why he should not be barred from filing future complaints, the suspension will continue indefinitely. *See* Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.

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

March 15, 2023