

FILED

January 3, 2024

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-23-90043

MEMORANDUM

Complainant, a pro se litigant, alleges misconduct by the subject United States District Judge in a 42 U.S.C. § 1983 proceeding.

In an Order of Dismissal, the judge found that despite the court's granting two or more extensions of time, complainant had not shown good cause for his failure to obtain issuance of summons and service on the defendants. The judge subsequently denied complainant's motions for reconsideration and to reopen the case.

Complainant complains that the judge's summary of the complainant's conduct set out in the Order of Dismissal was "not true at all!!!" and demonstrated "bias" and "Abuse of Discretion." Complainant lists every purported "lie" in the summary. For example, the judge stated complainant: named at least four unidentified constables and physicians in the § 1983 complaint; failed to seek leave to file an amended complaint; and, had ample free world time and opportunity to obtain issuance of summons after being released from jail.

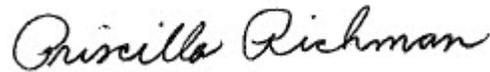
Complainant further asserts that the dismissal of his lawsuit for failure to obtain issuance of summons and service on the defendants was "false" because he had shown good cause why any such failure was not his fault, and the court should have therefore granted an extension of time to effect service. He protests: "If I knew for sure that I was doing the wrong thing, I would

have corrected it a long time ago,” but the judge “does not want to give me an opportunity to embrace my redress for some injuries that occurred.”

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 assertion of bias appears entirely derivative of the merits-related charges, but to the extent the allegation is separate, it is wholly unsupported and is 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
Priscilla Richman
Chief United States Circuit Judge

December 26, 2023