

**FILED**

January 9, 2024

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Numbers: 05-23-90094 and 05-23-90095

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## MEMORANDUM

Complainant, a state prisoner, has filed a complaint alleging misconduct by the subject United States District Judge [“Judge A”] in complainant’s 28 U.S.C. § 2254 proceeding, and by the subject United States Magistrate Judge [“Judge B”] who presided by consent in complainant’s 42 U.S.C. § 1983 proceeding.

### *Allegations against Judge A*

Complainant complains that Judge A “never addressed” his request to appoint counsel. However, according to the docket, the judge entered an order denying appointment of counsel on April 23, 2019, and this aspect of the complaint is therefore subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii).

Without presenting any evidence in support of the allegations, complainant further asserts that Judge A, the State, and prison officials “were communicating through the newspaper on what to do with my case and the judge denied my case for the State . . . . Their code was a[n] Octopus had grab[b]ed a[n] Eagle. . . . [I have] seen them do this before with at least [three] other cases. They put it in the [local newspaper].”

Complainant also protests that the judge's rulings were "hostile, discriminat[ory] and hateful," and he "should not be doing any favors for the state at the expense of [my] liberty and life."

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, hostility, discrimination, and ex parte communication or other improper conduct in favor of the Respondent 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."

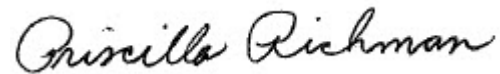
*Allegations against Judge B*

Complainant complains that Judge B "knows" that complainant is "mentally disabled ... and not competent" but denied his motions to appoint counsel. He further complains that the judge "knew I needed a change of venue but dismissed the case and added no motions from [me] to stop [me] from making objections or filing anything with the clerk. Which . . . lost [me] 350.00 dollars." Complainant contends that Judge B was "doing the state a favor" by entering "hostile, discriminat[ory] and hateful" orders "throwing [my] case out of court" and "punishing [me] by taking [my] money."

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, hostility, and discrimination 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.

A handwritten signature in cursive script that reads "Priscilla Richman".

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Priscilla Richman  
Chief United States Circuit Judge

December 29, 2023