

FILED

January 9, 2024

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-23-90114 through 05-23-90119

MEMORANDUM

Complainant, a state detainee, has filed a convoluted complaint alleging misconduct by United States District Judge A and United States Magistrate Judge X in Case 1, by United States District Judge B and United States Magistrate Judge Y in Case 2, by United States District Judge C and Magistrate Judge Y in Case 3, and by Judge C and United States Magistrate Judge Z in Case 4. In addition, complainant makes numerous vague and conclusory assertions of misconduct against Judges B and C and Magistrate Judge Y and Z in twenty-two cases he filed in May 2023.

Case 1—Judges A and Magistrate Judge X

Without providing any support for the claim, complainant alleges that Judge A and Magistrate Judge X “allowed [an attorney associated with state family court proceedings regarding complainant’s grandchildren] to interfere with” the case, “allowed someone to interfere and/or influence them to dismiss the case,” and “knowingly and willingly refused to uphold and enforce the U.S. Constitution and Federal Laws.”

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 improper conduct 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.”

Case 2—Judge B and Magistrate Judge Y

A review of the underlying docket shows that on March 27, 2023, complainant filed a 42 U.S.C. § 1983 action. On May 31, 2023, Magistrate Judge Y recommended that the lawsuit should be dismissed without prejudice for failure to comply with a court order. Complainant’s objection to the recommendation—docketed August 3, 2023—is pending.

Complainant appears to complain that neither Judge B¹ nor Magistrate Judge Y have entered rulings on a “motion to compel”² and motions for a protective order he filed in April and May 2023. Citing “the law of contracts,” complainant appears to further object that the magistrate judge erroneously held that his handwritten “payment coupon” did not suffice to pay the filing fee.

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, Rule 4(b)(2) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings provides that an allegation about delay in rendering a decision or ruling is not cognizable misconduct “unless the allegation concerns an improper motive or habitual delay in a significant number of unrelated cases.” As complainant does not allege the former, and there is no evidence of the latter, this aspect of the complaint is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Case 3—Judge C and Magistrate Judge Y

Complainant complains that Magistrate Judge Y’s denial of his “Motion for [his daughter] to join case” was erroneous. He appears to further complain that by adopting the magistrate judge’s recommendation to dismiss complainant’s 28 U.S.C. 2241 petition for a writ of habeas corpus

¹ Complainant mistakenly names Judge C as the subject of this allegation.

² There is no “motion to compel” listed on the docket.

without prejudice for failure to comply with a court order, Judge C “either denied or ignored” the merits of his habeas claims.

These allegations relate directly to the merits of decisions or procedural rulings and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Case 4— Judge C and Magistrate Judge Z

Noting that he has “direct knowledge of [the] fact” that his grandchildren “were kidnapped and trafficked” by state authorities, complainant protests that Magistrate Judge Z erroneously and improperly recommended dismissal of the lawsuit for failure to state a claim upon which relief can be granted. He appears to further complain that despite his filing “verified Notarized Criminal Complaints with supporting Affidavits in accordance with FRCP,” Judge C and Magistrate Judge Z have “refus[ed] to issue warrants and/or summons[es] on or request depositions and to bring [me] before a judge to give Statement of Oath!”

These allegations relate directly to the merits of decisions or procedural rulings and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

General allegations

Complainant makes general allegations of misconduct by Judges B and C and Magistrate Judges Y and Z in twenty-two other cases. The remainder of his allegations are so vague that it not possible to discern which of the six subject judges and twenty-six underlying cases are relevant. For example:

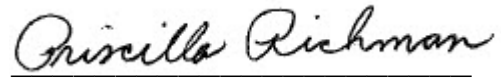
- Magistrate Judge Y “signed” Case 3 and eleven other cases.
- Magistrate Judge Z “signed off on” eleven other cases.
- After Magistrate Judge Z “got involved” in Case 4, “every writ, every lawsuit, and every document [was] denied or dismissed.”
- Judge B “signed off on” four other cases.

- Judge C “refused to sign [an] order protecting the [complainant’s family members] and refused to report the wrongful acts of other Judges.”
- “I personally sent Protection Orders to [Judges B and C and Magistrate Judge Y and Z]. All refused to protect [me].”
- “[I have] asked for (demanded) legal assistance. . . . Denied! Every pleading, motion, order, every document is either ignored or denied!”
- “[My] right to be heard is actively being abolished.”
- “My documents keep getting returned to me. My mail opened by others without Power of Attorney. The US Court judge know this and refuse to act!”

To the extent that these allegations relate directly to the merits of unspecified decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, such vague and conclusory allegations are insufficient to raise an inference that misconduct has occurred and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii). See *In re Memorandum of Decision of Judicial Conference Committee on Judicial Conduct and Disability*, 591 F.3d 638, 646 (U.S. Jud. Conf. Oct 26, 2009) (“Rule 6(b) makes clear that the complaint must be more than a suggestion to a Chief Judge that, if he opens an investigation and the investigating body looks hard enough in a particular direction, he might uncover misconduct. It must contain a specific allegation of misconduct supported by sufficient factual detail to render the allegation credible.”)

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".

Priscilla Richman

Chief United States Circuit Judge

December 29, 2023