

FILED

January 9, 2024

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-24-90016

MEMORANDUM

Complainant, a pro se litigant, has filed a complaint alleging misconduct by the subject United States Magistrate Judge in his pending 42 U.S.C. § 1983 proceeding.


Complainant asserts that despite it being “obvious that I was targeted and my Rights were violated” by the defendants, the judge denied the Complainant’s motions to appoint a special investigator and counsel. He further asserts that the judge’s prompt denials of his various motions,¹ and her recommending denial of his motion for declaratory judgment, “proved that she could not be fair or impartial.”

To the extent that the allegations relate directly to the merits of the judge’s decisions and rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertion of bias or partiality appears entirely derivative of the merits-related charge, 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.”

¹ Complainant contrasts this conduct with the judge’s “not rul[ing] on any motion the opposing counsel has submitted since 2018 when the suit was filed.” However, the docket records that the judge has ruled (equally promptly) on at least twenty defense motions.

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

Chief United States Circuit Judge

January 6, 2024