

**FILED**

March 19, 2024

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Numbers: 05-24-90046 and 05-24-90047

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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 alleges there was “interference” in the 28 U.S.C. § 2254 proceeding “by the clerks, [Judge A], and other people prisrons [sic],” i.e., the “clerks filed nothing in [my] favor.” He further claims that “the prison put pressure on somebody in the court and it influenced the decisions of the court” and, repeating allegations made in his prior complaint, he asserts that “[t]he state and prison as well as the court corinated [sic] to keep [my] federal case from succeeding [sic] in the courts at the state [sic] interest. [Judge A] has done this before for the state.” Complainant also complains that Judge A—who denied his motions to appoint counsel—should have appointed a Guardian ad Litem “before any decisions were made in this case according to federal law” because “[I am] interllectually [sic] disabled and legally ha[ve] Developmentally [sic] disabilities.”

To the extent that the 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). To the extent that complainant repeats claims made in a prior complaint, those allegations are subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii). In other respects, the vague and conclusory assertions that the judge (and clerk's office personnel) "interfered" in complainant's case, and that "the prison" influenced the judge's decisions, are 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 claims that "it has c[o]me to [my] attention that the Federal clerk's office was told to keep me out of the federal court," i.e., "the clerks made sure they did not file nothing [sic] in [my] favor . . . and made [me] look like a liar," however "[I am] not sure if [Judge B] told the clerks to do this." He further asserts that "the prison had influence on the d[e]cisions of the court that lead [sic] to the . . . denial of a fair trial, hearing." Complainant also complains that Judge B—who denied his motions to appoint counsel—was "aware" that "[I am] interllectually [sic] disabled and legally ha[ve] Developmentally [sic] disabilities," but the judge failed to appoint a Guardian ad Litem "before any decisions were made in this case according to Federal Law" and failed to report "crimes committed against disabled [sic] . . . to local state law enforcement for investigation." In addition, complainant repeats his prior allegations that Judge B did not refund his filing fee and "told the clerks no more motions in this case could be filed . . . with intent to keep [me] out of court."

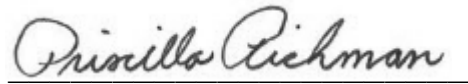
To the extent that these allegations relate directly to the merits of decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). To the extent that complainant repeats claims made in a prior complaint, those allegations are subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii). In other respects, the vague and conclusory

assertions that the judge might have instructed clerk's office personnel to interfere with complainant's case, and that "the prison" influenced the judge's decisions, are 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.

The filing of repetitive complaints is an abuse of the complaint process. 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.

  
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Priscilla Richman  
Chief United States Circuit Judge

March 15, 2024