

FILED

May 20, 2024

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-24-90063

MEMORANDUM

Complainant, a pro se litigant, alleges complains that despite her “provid[ing] evidence” that the Defendant in her 42 U.S.C. § 1981 lawsuit “was not [a] government or a state actor,” the subject United States District Judge “committed fraud on the court through deception and misrepresentation against [me]” by “solely rel[ying] on hearsay and regurgitat[ing] irrelevant court cases” and finding “that [I] failed to properly plead § 1983 as the vehicle for [my] racial discrimination claims against the [Defendant] as a state actor.”

Complainant further asserts that the judge “has a personal bias according to 28 U.S.C. § 144 when it comes to civil rights cases, especially if the Plaintiff is black or of a minority class” and “especially when it comes to [the Defendant].” Despite claiming that she reached this conclusion “after reviewing some of his civil rights [sic] resulting in dismissal especially when it comes to [the Defendant],” complainant has provided no examples of other civil rights cases brought by Black or “minority class” plaintiffs in which the judge ruled in favor of the Defendant.¹ The only example complainant has provided in support of her claim is a civil rights action in

¹ According to PACER, only five cases against the Defendant have been assigned to the judge and, apart from complainant’s case, there appears to be only one other civil rights action in which a “Black or minority class” plaintiff alleges racial discrimination by the Defendant. The second case is pending.

which she alleges that the judge “ruled in favor [of the Plaintiffs] because they are white people.”

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 “deception,” misrepresentation, racial bias, or other improper motive, 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.”

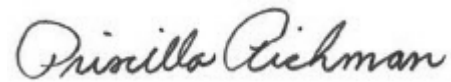
Complainant also alleges that the judge engineered the assignment of her case to his docket “so that he [could] manipulate [my] civil rights case which resulted in [my] case being wrongfully dismissed.” In support of this claim, complainant has provided a copy of a Special Order issued by the Chief District Judge of the relevant district court which complainant submits assigned cases filed between January through June 2020 to the subject judge, and assigned cases filed between July through December 2020 to another district judge. She submits that the subject judge intentionally “disobeyed” the Special Order to have her case—filed in August 2020—assigned to his docket.

Complainant is mistaken. The Special Order at issue pertained to “duty judge assignments,” whereas the assignment of civil cases in August 2020 was governed by a different Special Order dividing the assignment of cases “by random draw” among the subject judge and two other judges.

As such, the conclusory assertion that the judge intentionally interfered with the random assignment of complainant’s case 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.

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

Priscilla Richman
Chief United States Circuit Judge

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