

FILED

July 25, 2024

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-24-90099 and 05-24-90100

MEMORANDUM

Complainant, a pro se litigant, has filed a barely intelligible complaint alleging misconduct by the subject United States District Judge and United States Magistrate Judge in a 42 U.S.C. § 1983 proceeding. This is Complainant's second complaint in less than five weeks regarding the same proceeding.

Complainant alleges that the magistrate judge's failure to enter recommendations on a Motion for Judgment she filed on December 21, 2023, was intentional and prejudicial, i.e., he "kn[e]w that the Defendants' [sic] failure to file an answer to my Motion for Judgment will result in a [j]udgment in [my] favor . . . (no trial needed)." She appears to further assert that the magistrate judge's failure to address the motion constitutes cognizable misconduct under Rule 4(b)(2) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, i.e., the magistrate judge displayed "an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases." Complainant offers no information in support of the alleged "habitual delay in a significant number of cases."

Such conclusory assertions of "improper motive" and "habitual delay" 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."

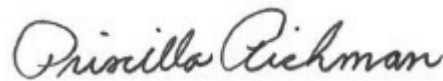
Repeating allegations made in her prior complaint, Complainant protests that despite her filing "Case Law and Legal Documents [proving] beyond a

reasonable doubt my Civil Rights were Violated by the Defendants [sic], and the Defendants [sic] Immunity is Barred,” the district judge adopted the magistrate judge’s erroneous recommendation and granted the Defendant’s Motion to Dismiss. Complainant also repeats her prior allegation that the district judge failed to enter a ruling on her Motion for Judgment prior to dismissing her lawsuit, however, misconstruing the language of Rule 4(a)(5) which provides that “cognizable misconduct includes refusing, without good cause, to cooperate in the investigation of a complaint . . . under [the Rules for Judicial-Conduct and Judicial-Disability Proceedings],” Complainant now submits that the failure to enter a ruling constitutes evidence of the district judge’s “refusing to cooperate in the investigation of my [42 U.S.C. § 1983] complaint.”

These repetitive allegations— which were previously dismissed under 28 U.S.C. § 352(b)(1)(A)(ii) as directly related to the merits of the judges’ decisions and procedural rulings—are subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii), as is the misguided assertion that the district judge violated Rule 4(a)(5).

The filing of repetitive allegations constitutes an abuse of the complaint process. Complainant is WARNED that should she file a further merits-related, conclusory, frivolous, or repetitive complaint, her right to file complaints may be suspended and, unless she is able to show cause why she 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.



Priscilla Richman

Chief United States Circuit Judge

July 24, 2024