

Judicial Council for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 25, 2024

Lyle W. Cayce
Clerk

Complaint Numbers: 05-24-90102 and 05-24-90103

MEMORANDUM

Complainant, a federal prisoner, alleges misconduct by the subject United States District Judge and the subject United States Magistrate Judge in a 28 U.S.C. § 2255 proceeding.

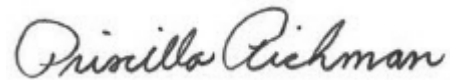
Complainant claims that crucial testimony was improperly removed from the audio-recording and transcript of an evidentiary hearing conducted by the magistrate judge in early 2022, and he alleges that the magistrate judge “is respons[i]ble for the Alteration of the Record Testimony.” Complainant further complains that when he presented these claims in a Rule 60(b) motion, the district judge failed to: “properly review the record in order to evaluate the Missing testimony”; ask the magistrate judge to “Confirm the Modification that was ordered by him” or “Recall the Testimony during the hearing”; question court-appointed counsel or the Assistant United States Attorney “to find their memory of the testimony that was removed”; “allow any outside Review by any third party”; or, “Cause any Investigation to Prove [my] All[e]gation wrong or Correct.”

Complainant concludes that “the Court has Caused a Fraud upon it’s [sic] Self Or [sic],” in denying the Rule 60(b) motion without conducting a thorough investigation, the district judge “has allowed an illegal action to happen, in an effort to deny [me] any Relief, at any Cost.”

To the extent that these allegations relate directly to the merits of decisions and procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertions of record tampering and improper motive 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.”

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
Priscilla Richman
Chief United States Circuit Judge

July 24, 2024