

FILED

December 30, 2024

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-25-90013

MEMORANDUM

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


A review of the record shows that the magistrate judge's only action in the case was entering a Report and Recommendation in which he granted Complainant's application to proceed in forma pauperis ("IFP"), noted that Complainant had been declared a vexatious litigant in state court proceedings, recommended that Complainant's claims be dismissed with prejudice as frivolous under 28 U.S.C. § 1915(e), and admonished Complainant against filing a further frivolous lawsuit in federal court.

Complainant alleges that the magistrate judge erroneously and/or improperly: denied his IFP application; failed to grant his motion to appoint counsel; "declared [I was] a vexatious litigant without proper notice or an opportunity to defend [my]self in ex parte [sic] hearings"; failed to address the merits of his claims against the Defendants; misapplied the law; and recommended that the case should be dismissed with prejudice. He further asserts that the magistrate judge's findings and recommendation "reflect judicial bias, discrimination, ... [and] collusion with [the Defendants]" and violated his due process and constitutional rights.

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 bias, discrimination, and 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.”

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.


Jennifer W. Elrod
Chief United States Circuit Judge

December 27, 2024