

JUN 06 2016

FIFTH CIRCUIT  
LYLE W. CAYCE, CLERK

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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Complaint Numbers: 05-16-90085 through 05-16-90088

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MEMORANDUM

Complainant, a federal prisoner, has filed a judicial misconduct complaint regarding the conduct of the three subject United States District Judges and the subject United States Magistrate Judge in complainant's criminal proceeding. Complainant alleges that:

- Judge A "accepted [an] indictment which was fatally flawed, as it lacked specific details of factual cause" and, with the magistrate judge, "allowed Superseding Indictments to be filed without presentment to [a grand jury]."
- Judge B and the magistrate judge "have allowed a 'vague' indictment to stand, also allowing double jeopardy exposure for alleged conduct in another district."
- The three judges and the magistrate judge "have all allowed this case to sit with no 'facial' proof of subject matter jurisdiction ... and insufficient evidence ... for more than 2 years," and have permitted defense counsel "to not perform at all ... setting a 'plea precedent' on my case."

These allegations relate directly to the merits of the judges' and the magistrate judge's decisions, and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1) (A)(ii).

Complainant further complains that Judge B "has allowed [a] letter addressed to her to be returned to me, unanswered, even when I plead for help."

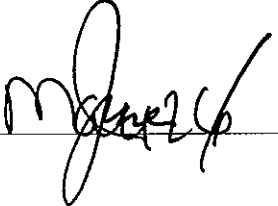
It is entirely proper for a judge not to respond to *ex parte* communication from a criminal defendant represented by counsel, and the allegation is therefore subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii).


Complainant also submits that “[i]t appears that Judge [C] allowed [a Special Agent] to sign the judges [sic] name on the complaint on my case.”

A review of the record indicates no discernible difference between Judge C’s signature on the complaint and his signature on numerous court orders, and the allegation is therefore also subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii).

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.

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Carl E. Stewart  
Chief Judge