IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Complaint Numbers: 05-16-90098 through 05-16-90102

MEMORANDUM

Complainant, a state prisoner, has filed a judicial misconduct complaint against United States District Judges A, B and C, and against United States Magistrate Judges X and Y. The allegations arise out of six separate district court proceedings.

- **Case 1**

Complainant alleges that Magistrate Judge Y: "committed perjury" by making erroneous and fraudulent findings in her reports recommending denial of his original and amended habeas petitions; "utilized" an affidavit "knowing it was an *ex parte* communication"; "fraudulently concealed the first fraudulent judgment" and then "utilized it"; denied his motions for discovery of those documents and other records; and, denied his motions for her recusal.

He further complains that Judge B: denied his habeas petition "upon the extrinsic fraud of [Magistrate Judge Y]"; denied his motion for relief from judgment; admonished him "not to file any more frivolous papers and denied relief, extensions of time, stays"; and "misprisioned a felony that's how [I] got sanctioned to prejudice antithetarius for the judiciary's extrinsic fraud."

- **Cases 2 and 3**

Complainant asserts that in these two proceedings Magistrate Judge Y "maliciously operated without jurisdiction ... when [I] waived [my] right to proceed before a magistrate." Contrary to this assertion, a review of the record shows that the

magistrate judge's rulings were non-dispositive, and a district judge entered final judgment in each case.

He further alleges that "the writ of injunction [Case 3] was filed 1 Apr 15 mailbox rule and sanctions fraudulently obtained were signed 2 Apr 15 and the extension to time to file that fraudfeasor [Magistrate Judge Y] granted." This allegation is nonsensical. According to the record, complainant's writ was dated April 1, 2015, but the magistrate judge's recommendation to impose sanctions was signed on April 17, 2015 and the judge's order imposing the sanctions was signed on May 12, 2015.

- **Case 4**

Complainant protests that Judge A "refused to correct his own 20 year fraud in the underlying proceedings further I caught Magistrate [Judge Y] in multiple lies that [Judge A] abetted … all of the crimes have been in retaliation for informing."

- **Case 5**

Complainant contends that Magistrate Judge X "did fraudulently misrepresent every element in the [report and recommendations] in furtherance of said fraud," and Judge C "did abet the fraud arising out of [state proceedings] and every case therefrom the fraud was alleged *ante omnia*."
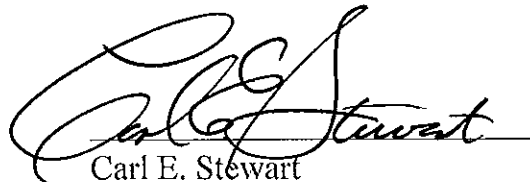
- **Case 6**

Complainant claims that Judge B "did sit in judgment when asked to recuse because of crime that he and his habitual liar Magistrate [Judge Y] [sic] in [Case 1] that I had repeatedly complained of fraud therein."

To the extent that the allegations relate directly to the merits of the judges' and the magistrate judges' decisions, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, such conclusory assertions of bias, fraud, retaliation, and criminal conspiracy are insufficient to support findings of judicial misconduct and are therefore subject to dismissal 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.

This is complainant's third merits-related complaint, and he has been warned previously against filing further merits-related or frivolous complaints. Complainant's right to file complaints is hereby SUSPENDED pursuant to Rule 10(a), Rules For Judicial-Conduct or Judicial-Disability Proceedings. He may show cause, through a petition for review submitted pursuant to Rule 18, why his right to file further complaints should not be so limited.

An order dismissing the complaint is entered simultaneously herewith.

Carl E. Stewart
Chief Judge

June 14 , 2016