

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS

**FILED**

JAN 04 2017

FIFTH CIRCUIT  
LYLE W. CAYCE, CLERK

---

Complaint Number: 05-17-90001

---

MEMORANDUM

Complainant, a state detainee, complains that the subject United States Magistrate Judge failed to recuse himself *sua sponte*, or in response to a letter complainant wrote on August 25, 2016, from two civil proceedings. He alleges that the magistrate judge is engaged in a “judicial conspiracy” with local politicians “that look out on each other by harassing any person that goes against [the County].

For example, without providing any evidence in support of the contention, complainant alleges that the magistrate judge cannot be impartial because of “relationship/friendship with [the defense] law firms” in the two cases. A review of the magistrate judge’s employment history before taking the federal bench indicates that he was not formerly an attorney with any of the defense law firms. It is entirely possible that the magistrate judge knows the attorneys who appear before him in the underlying proceedings, but complainant presents no evidence that any such relationships have affected the magistrate judge’s ability to be impartial.

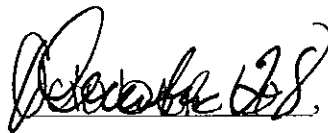
Complainant, who was homeless at the time of his arrest, claims to have been engaged in “a political war for around 5 years” against the magistrate judge’s son who purportedly serves on the Board of a charitable organization that serves the homeless. “I think [the magistrate judge’s] son is behind a lot of harassenment [sic] I am receiving at the jail.” Without providing any evidence to support the allegations, he submits that the magistrate judge “den[ied] facts and motions in the cases as an attempt to throw both

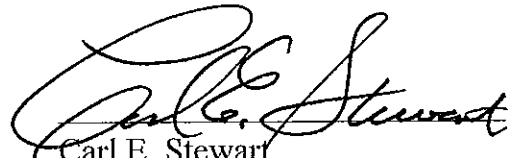
civil actions for [his] son.” The undersigned notes that neither the charitable organization nor the magistrate judge’s son appears to have any discernible association with complainant’s lawsuits.

To the extent that these allegations relate directly to the merits of the magistrate judge’s decisions, including any implicit decision not to recuse himself, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, such conclusory assertions of conspiracy and bias are insufficient to support a finding 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.

An order dismissing the complaint is entered simultaneously herewith.

 2016

  
Carl E. Stewart  
Chief Judge