U. S. COURT OF APPEALS
FILED
FEB 11 2016
FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Docket Number: 05-16-90037

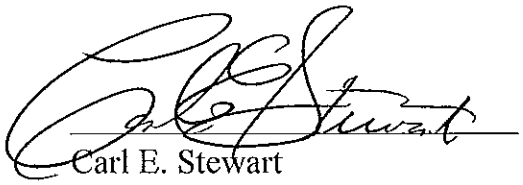
MEMORANDUM

Complainant, a *pro se* litigant, alleges that the subject United States District Judge's denial of his Fed. R. Civ. P. Rule 55(a) motions for default judgment "evidences questionable *ex parte* discussions between [the judge] and [defense counsel] ... in which it was decided that [the judge] would set aside plaintiff [sic] motion for entry of default judgment ... allow [defense counsel] to enroll and filed [sic] an untimely motion to extend time for pleadings." He further complains that the judge's "arbitrary" and "subjective" decisions not to "follow the local and federal guidelines ... has subjected *in proper person* African American male plaintiff to discriminatory treatment." Complainant also asserts that the judge "displayed preferential treatment" towards the defendants because he did not warn, sanction, fine, or require them to show good cause why default judgment should not be entered against them, for failing to timely answer complainant's claims.

To the extent that the allegations relate directly to the merits of the judge's decisions, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, such conclusory assertions of racial discrimination, bias, and *ex parte* communication are insufficient to support a finding of judicial misconduct, and are 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.



Carl E. Stewart
Chief Judge

January 7, 2016