

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Docket Number: 05-16-90052

U. S. COURT OF APPEALS
FILED
MAR 09 2016
FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

MEMORANDUM

Complainant, a state prisoner, complains that instead of granting his motion to dismiss the respondent's answer to a "fictitious" petition for a writ of habeas corpus and granting the relief sought in complainant's original 42 U.S.C. § 1983 complaint, the subject United States Magistrate Judge misconstrued the filing as a motion to dismiss the fictitious petition, and recommended that it be granted. He further asserts that the magistrate judge failed to "answer" his objections to the recommendation.

Complainant made identical allegations in a prior complaint dismissed as merits-related under 28 U.S.C. § 352(b)(1)(A)(ii). These repetitive allegations are therefore subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii).

The filing of repetitive allegations is an abuse of the judicial misconduct complaint process. Complainant is WARNED that should he file a further merits-related or frivolous complaint, or a further repetitive complaint, his right to file complaints may be suspended and, unless he is able to show cause why he should not be barred from filing future complaints, the suspension will continue indefinitely. See Rule 10(a), Rules For Judicial-Conduct or Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.


Carl E. Stewart
Chief Judge

February 17, 2016