

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

MAR 31 2016

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

Docket Number: 05-16-90054

MEMORANDUM

Complainant, a former federal prisoner, alleges that the subject United States District Judge acted improperly during complainant's 1996 criminal trial in retaliation for his having "dated and sold drugs to" the judge's wife "back in 1993-1994". In support of these allegations, complainant asserts that, at the request of trial counsel, he prepared an affidavit in either October 1999 or early 2000 attesting to his involvement with the judge's wife. He claims further that trial counsel attended a conference with him wherein the contents of the affidavit were discussed with the judge.

A limited inquiry was conducted pursuant to 28 U.S.C. 352(a)(2). Complainant stated that a copy of the affidavit can be obtained from trial counsel, however trial counsel does not have a copy of any such affidavit, does not recall that such an affidavit ever existed, and denies attending the conference complainant describes.

There is simply no evidence to support such conclusory assertions of retaliatory conduct, and the allegations are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii). To the extent, if any, 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).

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.



E. Grady Jolly
Circuit Judge

28 Mar, 2016