

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

JUL 05 2016

Complaint Number: 05-16-90095

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

MEMORANDUM

Complainant, a *pro se* litigant, alleges that the subject United States Magistrate Judge has engaged in “retaliatory” conduct in four civil proceedings. For example, he asserts that the magistrate judge:

- “[Did] not give a second thought when she dispatched U. S. Marshals to my mom’s house to have me arrested for violation of my probation. The initial arrest was wrong and unlawful and she was wrong to violate me when she knew it was wrong”;
- The defendants in two of the proceedings “cannot deny charges in both cases because they are admissions of facts surrounding them and incrimination these organizations. [The magistrate judge] is trying to save them from prosecution”;
- “Claimed my cases (I have four to date now) were dismissed when in fact they are not.”

To the extent that the allegations relate directly to the merits of the magistrate 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 retaliatory conduct are insufficient to support a finding of judicial misconduct and are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant further alleges that “the case number of one of the lawsuits was changed without [my] being notified.” This allegation is nonsensical. A review of the

dockets shows that the 2015 case was an employment discrimination lawsuit, whereas the 2016 case against the same defendants was a separate civil rights action.

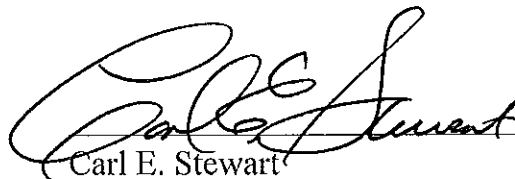
The allegation is subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A) (iii).

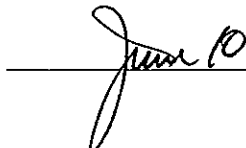
Complainant also protests that the magistrate judge “claim[ed] that [two proceedings] was [sic] dismissed. Closed as of May 2nd and 4th respectively earlier this month and no appeal has been filed. No appeal was filed because I never received a letter informing me the case was closed.”

To the extent that this allegation relates directly to the merits of the magistrate judge’s ruling, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). To the extent, if any, that complainant is alleging that the magistrate judge intentionally withheld notice of the dismissals of his cases, the clerk’s office is responsible for notifying litigants of court rulings and the allegation is 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.


Carl E. Stewart
Chief Judge

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