

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

NOV 02 2016

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

Complaint Numbers: 05-16-90113 and 05-16-90114

MEMORANDUM

Complainant, a *pro se* litigant, has filed a judicial misconduct complaint against the subject United States District Judge and the subject United States Magistrate Judge. Without presenting any evidence in support of the claim, complainant alleges that the judge and the magistrate judge engaged in “racketeering influence corrupted organizations” with the clerk’s office and the defendants through “ex-parte written communications – emails and letters discussing case – opinions.”

Such conclusory assertions 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).

Complainant appears to further assert that despite being aware that a defendant violated state law by not providing him with certain records vital to his lawsuit, the judge and the magistrate judge conspired with the defendant “to conceal” either the records or the defendant’s refusal to provide them, and improperly dismissed his claims.

To the extent that the allegations relate directly to the merits of the judge’s and 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 conspiracy are insufficient to support a finding of judicial misconduct, and are therefore also 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.

This is complainant's second merits-related and conclusory judicial misconduct complaint in four months regarding the same proceeding. Complainant is WARNED that should he file a further merits-related or frivolous 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

August 9, 2016