

AUG 01 2017

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUITFIFTH CIRCUIT
LYLE W. CAYCE, CLERK

Complaint Numbers: 05-17-90071 through 05-17-90073

MEMORANDUM

In a rambling 67-page judicial misconduct complaint, complainant, a state prisoner, alleges that United States District Judge A's adverse rulings in five civil proceedings were erroneous, and these denials of complainant's due process rights were "so arbitrary and unreasonable that it shocks the sense of justice." He further claims that the judge demonstrated an "inability to abide by" the Rule of Law, ignorance of the Rule of Law, and/or intentional "disrespect for the civil rights of blacks." Without presenting any evidence other than the adverse rulings, complainant submits that "our justice system have no room for K-K-K and company which I am 100% sure [Judge A] is associated with the [local] Chapter."

Complainant also alleges that United States District Judge B and the subject United States Magistrate Judge "clearly and deliberately ignored" the exhibits he filed in support of his application for a writ of habeas corpus, and "plainly accepted elevated form over substance [of the purportedly defective indictment]." In addition, he complains that Judge B adopted the magistrate judge's erroneous recommendations and denied the petition, thereby violating his due process rights.

Complainant concludes that the subject judicial officers "blatantly ignored the plain language of the Constitution," engaged in "dereliction of duty and subordination of a Tyranny gover[n]ment," and intentionally violated his due process rights "because [I am] a black man standing before the KKK."

To the extent that these allegations relate directly to the merits of Judge A'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 bias and racial animus are insufficient to support a finding of judicial misconduct, and are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Judge B's retirement is an intervening event that makes action on the allegations against him unnecessary, and that aspect of the complaint is therefore concluded pursuant to 28 U.S.C. § 352(b)(2).¹

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.

July 29, 2017


Carl E. Stewart
Chief Judge

¹ The undersigned notes that had Judge B not retired, these allegations also would have been subject to dismissal as merits-related and conclusory under 28 U.S.C. §§ 352(b)(1)(A)(ii) and (iii).