

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

AUG 01 2017

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

Docket Number: 05-17-90083

MEMORANDUM

Complainant, a *pro se* litigant, has filed a judicial misconduct complaint against the subject United States Magistrate Judge regarding two civil proceedings, Case A and Case B.

Complainant asserts that the magistrate judge “unjustly” denied his motions to supplement his claims and recommended that his lawsuits be dismissed.

The allegation relates directly to the merits of the magistrate judge’s decisions, and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant further alleges that during an evidentiary hearing regarding both lawsuits, the magistrate judge “flat out cut me off when I started talking about unconstitutionally applicable and enforceable that the state had first crossed district lines and it is also my position that I wouldn’t have gotten a proper trial in those districts for the situation that my rights were run over from 1st to 4th to 6th to 8th and everyone knew about this also.”

A review of the transcripts shows that the magistrate judge was courteous and patient, and permitted complainant to talk at length about his claims. The allegation that the magistrate judge’s occasional interruptions attempting to move the hearing along were prejudicial are contradicted by the transcript, and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant also surmises that the magistrate judge might somehow be responsible for the presiding district judge's failure to recuse *sua sponte* in Case B (whereas the judge did recuse *sua sponte* in Case A), and "after that there was numerous time[s] that [the magistrate judge] didn't want to let pleading[s] go into court."

To the extent that these allegations relate directly to the magistrate judge's decisions to deny unspecified motions, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the allegations 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.

An order dismissing the complaint is entered simultaneously herewith.

July 29, 2017


Carl E. Stewart
Chief Judge