

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED
OCT 17 2017
FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

Docket Numbers: 05-17-90089 through 05-17-90091

MEMORANDUM

Complainant, a state prisoner, has filed a judicial misconduct complaint against the two subject United States District Judges and the subject United States Magistrate Judge regarding three separate civil proceedings.

- **Case 1**

Complainant asserts that the magistrate judge's granting of his application to proceed *in forma pauperis* "was an order to the district court to give me what I claimed for as I was entitled to relief." He alleges that it was "malfeasance/judicial misconduct" for Judge A to "follow up with no compensatory orders ... and leave me in harm's way and assetless at/to the whim of the proven factual committers of kidnapping, robbery, and unlawful prosecution."

The allegation relates directly to the merits of Judge A's decision to adopt the magistrate judge's recommendation to dismiss complainant's claims, and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

- **Case 2 and Case 3**

The magistrate judge found that complainant had misrepresented his federal litigation history on his applications to proceed *in forma pauperis*, determined that he had accrued more than three strikes under 28 U.S.C. 1915(g) and had not alleged that he was in imminent danger of serious physical injury, and revoked and rescinded her prior orders

granting *in forma pauperis* status. In Case 2, Judge B denied complainant's appeal from the magistrate judge's ruling and his subsequent motion for reconsideration.

Complainant protests that the magistrate judge and Judge B "should be acting on the felony information and protecting me the victim instead of using obscure statutes that only an attorney would know to deny due process and revoke [*in forma*] *pauperis* statuses." He further complains that the magistrate judge "state[d] I'm in no imminent danger ... and [Judge B] concurs with that and I allege that unethical at least to conclude that way."

The allegations relate directly to the merits of the magistrate judge's and Judge B's decisions, and are therefore also 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.


Carl E. Stewart
Chief Judge

October 11, 2017