

JAN 03 2018

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Complaint Numbers: 05-18-90022 through 05-18-90025

MEMORANDUM

Complainant, a *pro se* litigant, complains that the three subject United States Circuit Judges dismissed his claims on appeal without reviewing all of the evidence.

The allegation relates directly to the merits of the judges' decision, and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant complains that in his Report and Recommendations in a 2017 civil proceeding, the subject United States Magistrate Judge erroneously recommended dismissal for failure to state a claim upon which relief could be granted, improperly recommended dismissal "without allowing the defendants to answer to their own summons[es]," and improperly "gave out legal advice to the defendants." He further protests that the magistrate judge failed to recuse himself *sua sponte* despite having a prior working relationship and "friendship" with one of the defendants, a former district judge.

The allegations relate directly to the merits of the magistrate judge's decisions, including the implicit decision not to recuse *sua sponte*, 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.

To the extent that complainant asks the undersigned "to remove" the magistrate judge from the 2017 proceeding, or to transfer the case to another court, the judicial

misconduct proceedings are not a substitute for normal motions practice in the district court, and the request is therefore denied.

An order dismissing the complaint is entered simultaneously herewith.


Carl E. Stewart
Chief Judge

December 29, 2017
Date