

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

APR 13 2018

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

Complaint Numbers: 05-18-90053 and 05-18-90054

MEMORANDUM

Complainant, a *pro se* civil litigant, complains that the subject United States Magistrate Judge improperly recommended, and the subject United States District Judge improperly ordered, the transfer of complainant's civil lawsuit to a United States District Court in another jurisdiction. He alleges that the magistrate judge and the judge improperly "second guess[ed] my legal strategy" in choosing where to file the lawsuit, and transferred the case "without my voice [being] heard." He submits that the judge and the magistrate judge are "working in concert ... to deprive my right to prosecute my case."

Complainant appears to further allege that the judge and the magistrate judge intentionally failed to transmit his hybrid Rule 60(b) motion and judicial misconduct complaint to this Court for filing.

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 improper motive and conspiracy are insufficient to support a finding of judicial, and are 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 third merits-related and conclusory judicial misconduct complaint in less than two months. Complainant is WARNED that should he file a

further merits-related, conclusory, 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.



Jerry E. Smith
Circuit Judge

4-9-18

Date