

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS

FILED

MAY 16 2018

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

Complaint Numbers: 05-18-90068 and 05-18-90069

MEMORANDUM

Complainant, a *pro se* litigant, alleges that the subject United States Magistrate Judge's initial summary denial of complainant's motion for permission to file pleadings electronically violated his right to "equal access to the Courts." He submits further that this "criminal act" was not "cured" by the magistrate judge's subsequent decision to grant the motion. He also protests that the magistrate judge's admonishment that permission to file electronically could be revoked if complainant abused the privilege constituted "unwarranted public belittlement" and that the "threat of punishment" violated his "1st Amendment liberties."

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

In addition, complainant complains that by failing to recuse himself *sua sponte* "in a cause he could have conflict [sic]," the subject United States District Judge has "self-impugned the office by more than appearance of violating Due Process, equal application of laws."

To the extent that the allegations relate directly to the merits of the judge's implicit decision not to recuse himself *sua sponte*, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, such conclusory allegations are insufficient to support a finding of judicial misconduct and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

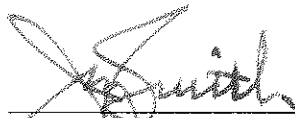
Complainant concludes that the judge and the magistrate judge “[w]orks [sic] in concert to deprive Civil liberties [sic] of fair & impartial tribunal.”

Such a conclusory assertion is insufficient to support a finding of judicial misconduct, and is therefore 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 sixth judicial misconduct complaint in less than two months, and he has been warned previously against filing further merits-related, conclusory, or frivolous complaints. Complainant’s right to file complaints is hereby SUSPENDED pursuant to Rule 10(a), Rules For Judicial-Conduct or Judicial-Disability Proceedings. Complainant may show cause, through a petition for review submitted pursuant to Rule 18, why his right to file further complaints should not be so limited.

An order dismissing the complaint is entered simultaneously herewith.



Jerry E. Smith
Circuit Judge

5-11-18

Date