

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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Docket Number: 05-18-90086

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MEMORANDUM

Complainant, a *pro se* litigant, has filed a confusing and convoluted judicial misconduct complaint against the subject United States District Judge who presided over complainant's action alleging medical malpractice by a physician employed by the United States government. She appears to allege that the conspired with counsel for the United States to erroneously and prejudicially to:

- overrule the magistrate judge's decision denying the government's motion to exclude her expert witness, and did so in a sealed order "so that his conduct could not be uncovered";
- "exclude my 2<sup>nd</sup> and 3<sup>rd</sup> amended complaint[s]"; and,
- dismiss her case (in a "completely illogical ruling") without considering the merits of her claims, consideration of which she contends would have resulted in a decision in her favor.


Complainant posits that the judge and the counsel for the United States conspired to ensure that a plaintiff in a pending medical malpractice lawsuit alleging similar claims could not rely on a favorable decision in her case to prevail in his lawsuit, and to bolster the chance of that plaintiff's agreeing to a settlement and "protect" the United States from judgments totaling "over \$13,000,000.00 dollar[s]." She also alleges that by so ruling, the judge improperly "inserted himself into" a case pending before another judge "and violated my constitutional rights in the process."

To the extent that the allegations relate directly to the merits of the 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 conspiracy and bias lack sufficient evidence to raise an inference that misconduct has occurred, and are 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. An order dismissing the complaint is entered simultaneously herewith.

 January 12, 2018

  
Carl E. Stewart  
Chief Judge