

MAR 12 2020

FIFTH CIRCUIT  
LYLE W. CAWCE, CLERK

JUDICIAL COUNCIL  
FOR THE FIFTH CIRCUIT

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Complaint Number: 05-20-90048

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MEMORANDUM

Complainant, a pro se litigant, has filed a complaint against the subject United States Magistrate Judge to whom preliminary matters were referred in his pending 42 U.S.C. § 1983 proceeding. He alleges that the magistrate judge has:

- “flatly ignored and or summarily dismiss[ed] . . . without justifiable cause” his “numerous motions for discovery and production”;
- “deliberately ignor[ed] the continued refusal of defendant to provide me discovery”;
- granted the defendant “depositional authority without compelling the defendant to provide discovery”; and,
- instead of transmitting a notice of interlocutory appeal to the Fifth Circuit, “capriciously” dismissed the appeal “without any record of same on the docket sheet” and thereby “deliberately le[d] me to believe I still had my appeal pending.”<sup>1</sup>

Complainant submits that the magistrate judge’s conduct demonstrates “judicial indifference and bias and prejudice against me.”


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<sup>1</sup> The undersigned notes that the transmission of a Notice of Appeal is generally the responsibility of the district court clerk’s office and, contrary to complainant’s claim that the magistrate judge dismissed his “appeal”, the docket records that no judicial action has been taken regarding the notice.

To the extent that these allegations relate directly to the merits of the magistrate judge's decisions and procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertions bias, prejudice, or "indifference" appear entirely derivative of the merits-related charges, but to the extent the allegations are separate, they are wholly unsupported, 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.

  
Priscilla R. Owen  
Chief United States Circuit Judge

March, 2020