

JAN 04 2017

FIFTH CIRCUIT  
LYLE W. CAYCE, CLERK

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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Complaint Numbers: 05-17-90015 and 05-17-90016

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MEMORANDUM

Complainant, a state prisoner, has filed a judicial misconduct complaint against the subject United States District Judge and the subject United States Magistrate Judge who presided over complainant's civil lawsuit against various prison officials ["the defendant-officials"] and the prison's Chief Medical Director ["the defendant-physician"].

Complainant alleges that the judge and the magistrate judge "conspired" with the defendant-officials to "falsely represent ... that the docket reflects that I was well-aware that the [defendant-officials] answered my lawsuit." He protests that there is "no way within the terms of reason" that the judge and the magistrate judge "could have construed [my answer]" as being "addressed to anyone other than [the defendant-physician]," and he concludes that the rulings were "effort[s] to help avoid a default judgment against the [defendant-officials]." He further asserts that "because of the combined conspiracy efforts of [the judge and the magistrate judge]," the defendant-officials "did not have to answer" various motions.

Complainant also complains that in response to a motion in which he raised "the court's taking on an advocacy role in favor of the [defendant-officials]," the judge "threaten[ed]" him with sanctions, including "possible dismissal of [the] lawsuit" (with prejudice, if complainant filed a further frivolous appeal from a magistrate judge's decisions, and/or any other frivolous motion). In addition, he contends that the judge "falsely represented" that the [defendants' answer] was mailed to [me] at [my] correct address," and erroneously and improperly denied his motion for partial summary

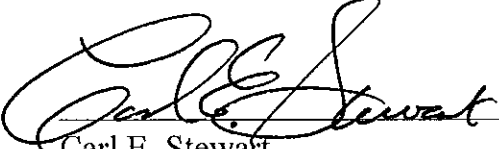
judgment and his Rule 60(b) motion. Complainant appears to submit that in reaching some or all of those decisions, the judge “knowingly and willingly” relied on “false documents” filed by some or all of the defendants.

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 conspiracy and bias 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).

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.

*Accepted* 30 2016

  
Carl E. Stewart  
Chief Judge

U. S. COURT OF APPEALS  
**FILED**

MAR 02 2017

FIFTH CIRCUIT  
LYLE W. CAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL  
OF THE FIFTH CIRCUIT

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No. 05-17-90015 and 05-17-90016  
Petition for Review by [REDACTED]  
of the Final Order Filed January 4, 2017  
Dismissing Judicial Misconduct Complaint Against  
[REDACTED]  
Under the Judicial Improvements Act of 2002.

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ORDER

An Appellate Review Panel of the Judicial Council for the Fifth Circuit has reviewed the above-captioned petition for review, and all the members of the Panel have voted to affirm the order of Chief Judge Stewart, filed January 4, 2017, dismissing the Complaint of [REDACTED], against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

**AFFIRMED.**

February 23, 2017  
Date



Priscilla R. Owen  
United States Circuit Judge  
For the Judicial Council of the Fifth Circuit