

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

AUG 01 2017

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

Complaint Number: 05-17-90066

MEMORANDUM

Complainant, a federal prisoner, complains that in an order denying his 28 U.S.C. § 2255 motion, the subject United States District Judge stated there was no requirement trial counsel review every piece of evidence the Government made available to him, nor was trial counsel required to show all of the information to complainant. Complainant submits that this statement constitutes evidence “of the modis [sic] operandi and the practice in [the judge’s court] that criminal defense attorneys may, with [the judge’s] knowledge and consent, fail to review every piece of evidence the Government made available,” and the judge “allows the Government to decide what discovery or Brady materials a court-appointed attorney is “allowed” to show a criminal defendant.”


Complainant submits that the judge’s “practice” violates the Constitutional rights of criminal defendants and “the Laws and Federal Court Rules of the United States,” and “calls into question [the judge’s] impartiality and possible mental disability.”

To the extent that these allegations relate directly to the merits of the judge’s decision, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, such conclusory assertions of bias against complainant in particular, a pattern of practice of denying the due process rights of criminal defendants in general, and that the judge’s ruling constitutes evidence of mental disability, are insufficient to support a finding of misconduct or disability, 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.

July 29, 2017


Carl E. Stewart
Chief Judge