

JAN 16 2019

FIFTH CIRCUIT
LYLE W. CAYCE, CLERKIN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Docket Number: 05-18-90084

M E M O R A N D U M

Complainant, a *pro se* litigant, filed a civil rights action in federal court alleging violation of his constitutional rights in state criminal proceedings. The subject United States Magistrate Judge ordered that the federal action be stayed pending conclusion of the state proceedings. Complainant alleges that by staying the federal action, the magistrate judge “deviat[ed] from the parameters” of 28 U.S.C. § 636(b). Noting that the stay order was entered the day after the defendants obtained “an illegal indictment” against him, complainant further asserts that the magistrate judge conspired with the defendants, “sought to deprive [me] of [my] right to appeal the decision,” and engaged in “intentional criminal behavior” through his “devoted effort toward abuse of discretion and slandering of [me].”

To the extent that the allegations relate directly to the merits of the magistrate 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 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.


This is complainant’s fourth judicial misconduct complaint. Over a five-week period in 2002, complainant filed three judicial misconduct complaints dismissed as directly related to the merits of the subject judges’ rulings. In dismissing the second such complaint, complainant was warned about filing a further inappropriate complaint. In

dismissing the third complaint, the Chief Judge declined to suspend complainant's right to file further complaints because complainant explicitly "guaranteed" he would not file another inappropriate complaint. Contrary to this averment, complainant has abused the complaint process by filing a fourth complaint attacking the merits of a judicial ruling.

Complainant's right to file complaints is hereby SUSPENDED pursuant to Rule 10(a), Rules For Judicial-Conduct or Judicial-Disability Proceedings. He 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.

January 12, 2018


Carl E. Stewart
Chief Judge