

FILED

February 5, 2021

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-21-90025 through 05-21-90027

MEMORANDUM

Complainant, a state detainee, has filed a complaint against the two subject United States District Judges and the subject United States Magistrate Judge, alleging misconduct in four civil proceedings.

Complainant, who consented to proceed before a magistrate judge in Case 1, complains that the magistrate judge “ha[d] the facts,” “[did] nothing to get me medical att[ention],” and dismissed complainant’s lawsuit “with unfa[i]r prejudice.” The allegations relate directly to the merits of a decision or procedural ruling and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant, who declined to proceed before a magistrate judge in Case 2, protests that the magistrate judge lacked “jurisdiction to dismiss [the lawsuit] without preliminarily obtaining consent to jurisdiction.” A review of the record shows that the magistrate judge entered a Report recommending that the district court dismiss complainant’s lawsuit.

To the extent, if any, that the allegation relates directly to the merits of the magistrate judge’s recommendation, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, a litigant has no right to object to the assignment of nondispositive matters to a magistrate judge under 28 U.S.C. § 636(b). *See Jackson v. Cain*, 864 F.2d 1235, 1247 (5th Cir. 1989). The allegation is therefore subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant submits that Judge A violated his rights in Case 3 by “charging me the filing fee.” The allegation relates directly to the merits of a decision or procedural ruling and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant asserts that in Judge A and Judge B have intentionally delayed taking judicial action in Case 3 and Case 4, respectively. Such conclusory assertions of intentional delay are insufficient to support findings 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.



Priscilla R. Owen
Chief United States Circuit Judge

February 4, 2021