

FILED

February 5, 2021

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Numbers: 05-21-90042 through 05-21-90044

MEMORANDUM

Complainant, a federal prisoner, has filed a complaint alleging misconduct by the two subject United States District Judges and the subject United States Magistrate Judge in complainant’s criminal proceeding.

Complainant alleges that Judge A, (then-Magistrate) Judge B, and the magistrate judge knowingly permitted the Assistant United States Attorney [“AUSA”] to “restructure the Grand Jury’s independent fact findings” to state “that not only had [the victim] suffered serious bodily injury, but also that she had been sexually assaulted and raped by [me],” thereby denying complainant “[the] core protections” of the Constitution. He further complains that Judge A imposed “an illegal judgment and sentence” based upon the AUSA’s (purported) “deception, fraudulent acts, and tampering with government documents,” resulting in his being unjustly classified as a sex offender by the Bureau of Prisons.

To the extent that these allegations relate directly to the merits of decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, such conclusory assertions are insufficient to support a finding of judicial misconduct and are therefore also subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant also complains that whereas Judge B recused himself (sua sponte) after the AUSA’s “illegal and unconstitutional violations were brought to his attention,” Judge A and the magistrate judge improperly

“swept these violations under the rug to protect their friend and/or co-worker,” i.e., the AUSA. In addition, complainant asserts that Judge A “discriminated against [me] due to [my] race and [my] religious beliefs as a Muslim.”

A review of the record shows no such recusal by Judge B whose final ruling as a magistrate judge was entered in December 2013. The case was reassigned to another magistrate judge after Judge B became a United States District Judge. Regardless, because identical allegations made in a prior complaint against Judge A and the magistrate judge were dismissed as merits-related and conclusory, these repetitive allegations are subject to dismissal as frivolous 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.

The filing of repetitive complaints is an abuse of the complaint process. Complainant is WARNED that should he file a further merits-related, conclusory, frivolous, or repetitive complaint, his right to file complaints may be suspended and, unless he is able to show cause why he should not be barred from filing future complaints, the suspension will continue indefinitely. See Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.



Priscilla R. Owen
Chief United States Circuit Judge

February 4, 2021