

JAN 04 2017

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Complaint Number: 05-16-90148

MEMORANDUM

Complainant, a *pro se* litigant, has filed a judicial misconduct complaint against the subject United States Magistrate Judge who recently recommended that his pending civil rights action be dismissed as frivolous and malicious.

Complainant alleges that the magistrate judge “intentionally denied me justice by doing a Plot and Conspiracy with the Defendant, that is a felony, a crime.” For example, he asserts that the magistrate judge “lied” by stating that: one of his prior lawsuits was dismissed for want of jurisdiction due to lack of standing; another district court held that he had a history of filing frivolous and repetitive lawsuits; and, in discussing whether sanctions should be imposed, she cited a Fifth Circuit case that states that *pro se* litigants have “no license to harass others, clog the judicial machinery with meritless litigation, and abuse already overloaded court dockets.” Ferguson v. MBank Houston, N.A., 808 F.2d 358, 359 (5th Cir. 1986).

Complainant submits that the magistrate judge violated the Constitution of the United States and the Oath of Office, “ignored laws, has no morality, and has a Bad Behavior.”


To the extent that these allegations relate directly to the merits of the magistrate judge’s report and recommendations, they are subject to dismissal under 28 U.S.C. § 352 (b)(1)(A)(ii). In other respects, such conclusory assertions of conspiracy are insufficient to support a finding of judicial misconduct or disability, and are 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 second merits-related and conclusory judicial misconduct complaint in less than two months. Complainant is WARNED that should he file a further merits-related, conclusory or frivolous 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 or Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.

September 30, 2016


Carl E. Stewart
Chief Judge