

JAN 04 2017

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

Complaint Numbers: 05-17-90021 and 05-17-90022

M E M O R A N D U M

Complainant, a *pro se* litigant, has filed numerous barely intelligible judicial misconduct complaints against the subject United States Magistrate Judge and the subject United States District Judge. The undersigned is considering the separate filings as a consolidated complaint.

Complainant complains that during an initial conference, the magistrate judge “forc[ed]” him “to get an attorney by February 16, 2016” and, later in the hearing, “[c]hanges from 02/16/2016 dateline to get an attorney was made too [sic] 02/16/2017.” He further asserts that the magistrate judge was responsible for the transcript of the hearing which failed to mention that he “won Pre Trial,” and purportedly omitted “[my] arguments that [I am a] representative for Medicaid and Medicaid [sic].” In a supplemental complaint, Celestine adds that the alleged anomalies in the transcript demonstrate that the district judge “is the snake head of all the FRAUDS.”

A review of the transcript shows that these claims, to the extent that they are coherent, appear to be contradicted by the record and are therefore subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii). In other respects, complainant presents no evidence that the transcript is incomplete and, even if it were incomplete, he provides no evidence that the either magistrate judge or the judge was responsible for any omissions. Such conclusory assertions are insufficient to support findings of judicial misconduct and are therefore also subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

In addition, complainant appears to complain that the subject United States District Judge erroneously dismissed his lawsuit for lack of subject matter jurisdiction,

misconstrued and denied various post-judgment motions, and ordered the clerk not to file certain post-judgment motions that complainant attempted to refile.

These allegations relate directly to the merits of the judge's decisions, and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

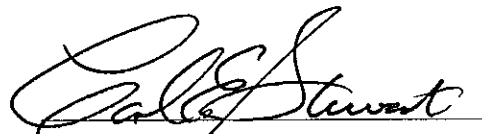
Complainant also alleges that the judge omitted a page from the record on appeal.

Any errors in docketing, or in transmitting the record on appeal, are the responsibility of the clerk's office, not the judge, and the allegation is therefore 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.

This is complainant's third merits-related judicial misconduct complaint. Complainant is WARNED that should he file a further merits-related, frivolous or conclusory 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.


Carl E. Stewart
Chief Judge

December 28, 2016