

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED
AUG 01 2017
FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

Docket Number: 05-17-90069

MEMORANDUM

Complainant, a *pro se* litigant, has filed his fifth judicial misconduct complaint in eighteen months, and his fourth such complaint against the subject United States District Judge.

A review of the dockets in the underlying district court proceedings shows that complainant mailed two forms in a single envelope to the district court clerk's office: a "Complaint for a Civil Case" and a "Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241." Clerk's office personnel docketed the two forms as separate civil proceedings, both of which were randomly assigned to the judge's docket. On February 7, 2017, the judge entered an order in Case A recusing *sua sponte*.

Complainant complains the judge also should have recused *sua sponte* in Case B.

The allegation relates directly to the merits of the judge's decision not to recuse *sua sponte* in Case B, and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).


Complainant further complains that "only one case was filed against the state now there are two," and claims that his habeas petition "was never filed into the record."

The decision to docket the two forms—one of which was the petition for a writ of habeas corpus complainant asserts "was never filed"—as separate cases was made by clerk's office personnel, not by the judge. These allegations are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

This is complainant's fifth judicial misconduct complaint in eighteen months, and he has been warned previously against filing a further merits-related or frivolous complaint. Complainant's right to file complaints is hereby SUSPENDED pursuant to Rule 10(a), Rules For Judicial-Conduct or Judicial-Disability Proceedings.

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.



Carl E. Stewart
Chief Judge

July 29, 2017