

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

JUN 06 2016

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

Complaint Numbers: 05-16-90075 and 05-16-90076

MEMORANDUM

Complainant, a *pro se* litigant, has filed a barely intelligible judicial misconduct complaint against the subject United States District Judge and the subject United States Magistrate Judge. Complainant appears to claim that the docket entries indicating that the magistrate judge's February 2, 2016 report mailed to complainant was returned twice to the court marked "refused" are erroneous. "The letter was noted refused x2. Never happened. Letter was stolen from annex and returned." He does not specify who stole the letter and returned it to the clerk, but states their "[o]bjective [was] to inflame court."

Complainant asserts further that a February 12, 2016 docket entry recording the return of the magistrate judge's report was entered the "same date as [the magistrate judge] signed the [report]." Complainant is mistaken: the docket entry applies to the report entered February 2, 2016, not to the report entered February 11, 2016.


Complainant also alleges that the judge and the magistrate judge engaged in "abuse of power" and "official oppression" by colluding with the clerk of court to "to use stolen letter with deleted pages on 2-16-16 to dismiss case." The only docket entries on February 16, 2016 are complainant's objections to the magistrate judge's February 2 report, and his motion asking the court to "review cover letter – (statement of claim) with original petition ... how many pages???" Complainant does not indicate in either the motion or in the instant complaint what pages are missing, or how they relate to the judge's adoption of the magistrate judge's recommendation to dismiss the lawsuit.

To the extent that the allegations relate directly to the judge's and the magistrate judge's decisions, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, such conclusory allegations of collusion between the judge, the magistrate judge, and the clerk in the mailing and docketing of documents are insufficient to support a finding of judicial misconduct, 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.

An order dismissing the complaint is entered simultaneously herewith.

Appellate 2016


Carl E. Stewart
Chief Judge

U. S. COURT OF APPEALS
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AUG 23 2016

**FIFTH CIRCUIT
LYLE W. CAYCE, CLERK**

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-16-90075 and 05-16-90076
Petition for Review by [REDACTED]
of the Final Order Filed June 6, 2016
Dismissing Judicial Misconduct Complaint Against
[REDACTED]

Under the Judicial Improvements Act of 2002.

ORDER

An Appellate Review Panel of the Judicial Council for the Fifth Circuit has reviewed the above-captioned petition for review, and all the members of the Panel have voted to affirm the order of Chief Judge Stewart, filed June 6, 2016, dismissing the Complaint of [REDACTED], against [REDACTED]

under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

August 16, 2016
Date

Priscilla R. Owen

Priscilla R. Owen
United States Circuit Judge
For the Judicial Council of the Fifth Circuit