

JAN 04 2017

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

Complaint Numbers: 05-17-90006 and 05-17-90007

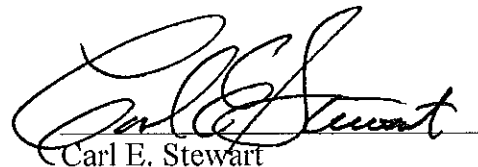
## M E M O R A N D U M

Complainant, a state prisoner, complains that he did not consent “to have [the subject United States] Magistrate Judge involved” in his pending prisoner civil rights proceeding, and the subject United States District Judge “dismissed my objection and refused to vacate the Magistrate Judge and his rulings.” Complainant further alleges that the magistrate judge is “clearly prejudiced in the defendants’ favor.”

To the extent that complainant is alleging that the magistrate judge lacks jurisdiction to enter rulings, the assignment of non-dispositive matters to a magistrate judge under 28 U.S.C. §§ 636 (b)(1)(A) and (B) does not require the consent of the parties. The allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A) (iii). To the extent that these allegations relate directly to the merits of 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 a conclusory assertion of bias is insufficient to support a finding of judicial misconduct, and is therefore 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.



Carl E. Stewart  
Chief Judge

December 16, 2016