

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS

FILED

OCT 25 2017

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

Docket Number: 05-17-90131

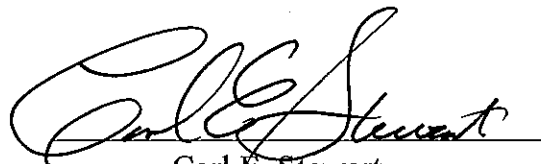
MEMORANDUM

Complainant, a pro se litigant, complains that the subject United States District Judge committed misconduct by ordering dismissal of his case without prejudice for failure to file proof of proper service. He complains that the judge did not rule on his motion for change of venue; did not inform him that his attempted service was defective; and did not specify in his dismissal order how service was improper. Finally, he urges that a continuance order “constructively notified Plaintiff that the court is satisfied with the affidavits of service.” This latter contention is incorrect on its face: not only was the continuance order filed four days before complainant filed his proof of service, but the continuance order expressly stated that “No other relief is granted by this Order.” For relief, complainant asks that his case be restored to the docket.

The complaint relates directly to the merits of the judge’s decisions, and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

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

October 23, 2017