

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Complaint Numbers: 05-19-90155 and 05-19-90156

U. S. COURT OF APPEALS
FILED

OCT 08 2019

FIFTH CIRCUIT
LYLE W. GAGE, CLERK


MEMORANDUM

Complainant, a pro se litigant, alleges that the subject United States Magistrate Judge treated him “in a demonstrably egregious and hostile manner” by ignoring his arguments in support of finding that the court had jurisdiction over the defendant, and intentionally failed to notify complainant “via ECF [or] US mailing service” of the entry of her Findings, Conclusions, and Recommendation. He further asserts that in adopting the magistrate judge’s recommendations, the subject United States District Judge “completely ignored” his objections. Complainant submits that the magistrate judge’s and the judge’s “biased attitude[s] ... hurt the very faith of litigants who expect the fair treatment of equity and fairness in judicial proceedings.”

To the extent that the complaint relates directly to the merits of the judge’s and the magistrate judge’s decisions or procedural rulings, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). To the extent that complainant alleges that the magistrate judge intentionally withheld notice of her Findings, Conclusions, and Recommendation, a review of the record shows that the magistrate judge explicitly instructed the Clerk to serve a copy of that document on the parties, and the allegation is therefore subject to dismissal as frivolous under 28 U.S.C. § 352(b)(1)(A)(iii). In other respects, the allegation of “biased attitude[s]” appears entirely derivative of the merits-related charges, but to the extent the allegation is separate, it is wholly unsupported, and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference that misconduct has occurred.”

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.

September 30, 2019


Carl E. Stewart
Chief Judge