

JUDICIAL COUNCIL OF THE SIXTH CIRCUIT
MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:
Complaint of Judicial Misconduct

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*No. 06-13-90085
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M E M O R A N D U M

This complaint was filed with the Judicial Council of the Sixth Circuit pursuant to the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, P.L. 96-458, as amended by the Judicial Improvements Act of 2002, Pub. L. No. 107-203, the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and the Rules Governing Complaints of Judicial Misconduct adopted by the Judicial Council of the Sixth Circuit.

After conducting an initial review, the chief judge may dismiss a complaint as to which he concludes:

- (1) that the claimed conduct, even if the claim is true, is not “conduct prejudicial to the effective and expeditious administration of the business of the courts” and does not indicate a mental or physical disability resulting in inability to discharge the duties of office;
- (2) that the complaint is directly related to the merits of a decision or procedural ruling;
- (3) that the complaint is frivolous, a term that includes making charges that are wholly unsupported.

Rule 4(c), Rules Governing Complaints of Judicial Misconduct or Disability.

This complaint was filed against the district judge who presided over and ultimately denied the complainant’s underlying petition for a writ of mandamus. The complainant objects to what he alleged was an “excessive” and “unnecessary” delay of more than two years from the time of filing to the time of dismissal.

Allegations of delay, absent improper motive or habitual delay, do not constitute misconduct cognizable in the judicial complaint process pursuant to Rule 3(h)(3)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Complainant has not shown and cannot show unreasonable or persistent delays, nor has he alleged an improper motive.

Under these circumstances, this complaint of judicial misconduct will be dismissed as lacking sufficient evidentiary basis to infer that misconduct occurred pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rules 3(h)(3)(B) and 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.



Alice M. Batchelder
Chief Judge

Date: 08-01-14