

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

In re:  
Complaint of Judicial Misconduct

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\*Nos. 06-13-90126/127  
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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 by a pro se litigant who objects to the delay in the district court’s initial consideration of her complaint, which she characterizes as a criminal complaint. Although complainant named both a magistrate judge and a district judge on the face of her complaint, the named magistrate judge has responded to the complaint of judicial misconduct and notes that he is not mentioned in the body of the complaint and that he played no role in the disposition of complainant’s underlying case. The pertinent court records reflect that, after complainant filed this complaint of judicial misconduct, the named district judge screened complainant’s complaint, construed it as asserting a civil action, dismissed the complaint as frivolous and certified that any appeal would not be taken in good faith.

This complaint is subject to dismissal as “lacking sufficient evidence to raise an inference that misconduct has occurred” pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. First, Rule 3(h)(3)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings specifically provides that a delay in making a ruling or decision, without more, does not constitute misconduct cognizable in the judicial complaint process. Similarly, it has long been the rule in this circuit that, absent a showing of unreasonable or persistent delay in handling litigation, the judicial complaint procedure is not intended to be used to force a ruling on a particular motion or matter alleged to be pending before a judge for an excessive period. See Rule 1(e), Rules Governing Complaints of Judicial Misconduct or Disability.

The record confirms that the named magistrate judge played no role in the disposition of complainant’s underlying case. Moreover, there was no inordinate delay in performing the initial review of complainant’s complaint in this case. Rather, the record reflects that the initial review required less than three months. Under these circumstances, no evidence exists sufficient to raise an inference that misconduct occurred in complainant’s underlying case.

Accordingly, these complaints will be dismissed 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