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

In re:	*
Complaint of Judicial Misconduct	*No. 06-14-90011
	*

MEMORANDUM

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 civil action. The complainant contends that his action "is being illegally stalled" because the subject judge is biased against pro se prisoners. He claims that the subject judge "has deliberately and intentionally stalled prisoner lawsuits in order to allow prison officials to tamper and destroy vital evidence."

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 delay in his case: the docket sheet shows that his civil action was denied, after merits consideration, within eight months of its filing. Because complainant

has not shown delay in his case, motive need not be considered. To the extent complainant is alleging a pattern of delay on the part of the subject judge, his allegations are devoid of factual support and are inherently incredible, particularly in light of the other available evidence of record. The complaint therefore will be dismissed 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.

Accordingly, the complaint will be dismissed as unsupported by sufficient evidence pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rules 3(h)(3)(B) & 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Alice M. Batchelder
Chief Judge

Date: 08-01-14