

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

In re:
Complaint of Judicial Misconduct

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*No. 06-14-90050
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M E M O R A N D U M

This complaint of judicial misconduct was filed by a pro se prisoner against the district judge assigned to his 42 U.S.C. § 1983 action. The complainant alleges that the district judge has not ruled on his motion to compel discovery, filed on January 12, 2014, his motion to present evidence, filed on February 23, 2014, and his motion for default judgment, filed on March 25, 2014.

After conducting an initial review, the chief judge may dismiss a complaint as to which he concludes: (A) that the claimed conduct, even if it occurred, “is not 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 judicial office”; (B) that the complaint “is directly related to the merits of a decision or procedural ruling”; (C) that the complaint is “frivolous,” a term that applies to charges that are wholly unsupported; or (D) that the complaint “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” Rule 11(c)(1)(A)-(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

This complaint is subject to dismissal under Rule 11(c)(1)(D) because it is based solely on the district judge’s delay in ruling on the complainant’s pretrial motions. See *also* 28 U.S.C. § 352(b)(1)(A)(iii). Rule 3(h)(3)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings provides that a delay in making a ruling or decision does not constitute misconduct absent a showing of improper motive or habitual delay. Review of the district court record reveals that the complainant cannot make a showing of anything more than routine delay. On August 19, 2014, the district judge ruled on all of the complainant’s pending motions.

Accordingly, this complaint 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.

/s/ R. Guy Cole, Jr.
Chief Judge

Date: October 15, 2014