

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

In re:
Complaint of Judicial Misconduct

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*No. 06-14-90114
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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 who was assigned to two of his civil-rights actions. The complaint alleges that the complainant filed a motion in each case on September 12, 2014, and that those motions “have not been responded to.”

After conducting an initial review, the chief judge may dismiss a misconduct 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”; (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.

An initial review of the district-court record reveals that on September 12, 2014, the complainant moved in one action for an expedited ruling on his motion for pauper status and for a copy of his complaint with a new summons. On the same date, the complainant moved in another action for service of his complaint. Both motions were effectively mooted when the district judge, on October 1 and 23, 2014, denied the complainant leave to proceed in forma pauperis. Because the complainant did not pay the district court’s filing fee within 28 days of the orders denying pauper status, both actions are now subject to dismissal.

This complaint will be dismissed under Rule 11(c)(1)(A) & (D) because it does not allege any acts or omissions that constitute judicial misconduct. See *a/so* 28 U.S.C. § 352(b)(1)(A)(iii). An allegation of delay, unaccompanied by allegations of improper motive or habitual delay in a significant number of unrelated cases, does not allege cognizable misconduct. See Rule 3(h)(3)(B), Rules for Judicial-Conduct and Judicial-

Disability Proceedings. In any event, the record reflects no substantial delay in the resolution of the complainant's motions.

For these reasons, the complaint will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(A) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: January 13, 2015