

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

In re:  
Complaint of Judicial Misconduct

\*  
\*  
\*No. 06-15-90034  
\*  
\*  
\*  
\*

**M E M O R A N D U M**

This complaint of judicial misconduct was filed by a pro se litigant against the magistrate judge assigned to his civil action. The complaint alleges that the magistrate judge “has consistently been tardy in ruling on pleadings.”

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.

An initial review of the district-court record reveals that the complainant filed his civil action in June 2014. On August 22, 2014, the complainant moved for permission to use the electronic filing system. The magistrate judge granted the motion on November 18, 2014. On November 24 and December 11, 2014, the defendants filed motions for judgment on the pleadings. The magistrate judge recommended on February 20, 2015, that the December 11 motion be granted, and the district court granted the motion on May 6, 2015. Meanwhile, on December 24, 2014, the complainant moved for leave to file a supplemental brief in opposition to the November 24 motion for judgment on the pleadings. The magistrate judge granted the complainant’s motion on February 20, 2015, and the complainant filed his brief on March 8, 2015. On June 4, 2015, the magistrate judge recommended denying the November 24 motion for judgment on the pleadings, and on August 3, 2015, the district court denied the motion.

This complaint is subject to dismissal under Rule 11(c)(1)(D). 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 does not constitute misconduct absent a showing of improper motive or habitual delay. The complaint alleges that the claimed delays are motivated by the complainant's race and his status as a pro se litigant. But the complaint does not set forth any facts that could support that allegation. And review of the district-court record reveals, at most, moderate delays that are not atypical for a busy district court. In short, there is no evidence sufficient to raise an inference that misconduct has occurred.

For these reasons, 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: November 3, 2015