

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

In re:
Complaint of Judicial Misconduct

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*No. 06-15-90045
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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 litigant against the district judge who was assigned to two civil actions that the complainant filed. The complaint alleges that the district judge has not ruled on motions to dismiss that were filed in those actions.

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.

A review of the district-court record reveals that the defendants in the complainant's civil actions filed motions to dismiss on December 22, 2014, and March 3, 2015. Those motions were fully briefed as of January 15, 2015, and April 3, 2015, respectively. Materials submitted by the complainant reflect that he has contacted the chief judge of the district court and the district court's ombudsman about the delay and has been assured that the motions will be adjudicated as soon as possible.

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 motions to dismiss. 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. On the record presented here, the complainant cannot make a showing of anything more than routine delay occasioned by the district judge's criminal docket and other matters.

For these reasons, the 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: August 28, 2015