

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

In re:
Complaint of Judicial Misconduct

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*No. 06-15-90074
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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 promptly ruled on motions or promptly ordered scheduling conferences.

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 complainant filed his civil actions in March 2015 and May 2015. It appears that the complainant’s motions are being ruled upon reasonably promptly and that both cases are progressing.

This complaint is subject to dismissal under Rule 11(c)(1)(D) because it is based solely on alleged delay by the district judge. 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 issuing an order does not constitute misconduct absent a showing of improper motive or habitual delay. On the record presented here, the complainant cannot make such a showing.

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: November 10, 2015