

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

In re:  
Complaint of Judicial Misconduct

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\*No. 06-16-90047  
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**MEMORANDUM AND ORDER**

This complaint of judicial misconduct was filed by [REDACTED] ("complainant") against the Honorable [REDACTED] ("subject judge"), pursuant to 28 U.S.C. § 351. This is the ninth time a complaint of judicial misconduct has been filed by this complainant. In the instant complaint, he alleges, as he has in most of his prior complaints, that the subject judge has failed to rule in a timely manner on the motions he has filed in an underlying civil case. He also alleges that the delay in ruling on his motions demonstrates that the subject judge is biased.

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.

Allegations of delay, absent improper motive or habitual delay, do not constitute misconduct cognizable in the judicial complaint process pursuant to Rule 3(h)(3)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Complainant has not shown and cannot show unreasonable or persistent delays, nor has he alleged an improper motive. The panel that denied the complainant's recent petition for mandamus, in which he attempted to force the subject judge to rule on pending motions, arrived at the same conclusion. The record thus belies any allegations of delay, unreasonable or otherwise, and complainant may not shoehorn his not cognizable delay allegations into a claim of bias by the use of circular logic. The complaint is therefore subject to dismissal as unsupported by sufficient evidence pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

For these reasons, it is **ORDERED** that the complaint be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rules 3(h)(3)(B) & 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: December 16, 2016