

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

In re:  
Complaint of Judicial Misconduct

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\*No. 06-16-90102  
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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. The complainant alleges that the subject judge did not perform a timely screening of his civil-rights complaint under the Prisoner Litigation Reform Act.

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; see 28 U.S.C. § 352(a), (b).

An initial review of the record reveals that the complainant, a prisoner, filed a civil-rights action in May 2015. In June 2015, the subject judge granted the complainant's motion for leave to proceed in forma pauperis and assessed the filing fee. In January 2016, the complainant filed summonses for the five defendants. In June 2016, the complainant moved to withdraw his complaint without paying the filing fee.

This complaint is subject to dismissal under Rule 11(c)(1)(D) because it is based solely on the subject judge's delay in performing the *sua sponte* screening required by 28 U.S.C. § 1915A. 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. Review of the district court record reveals that the complainant cannot make such a showing.

For these reasons, it is **ORDERED** that the complaint 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: May 25, 2017