

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

In re:
Complaint of Judicial Misconduct

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*No. 06-18-90003
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by **[REACTED]** (“complainant”) against the Honorable **[REACTED]** (“subject judge”), pursuant to 28 U.S.C. § 351. The complainant challenges the subject judge’s failure to promptly rule on his motion to voluntarily dismiss his Chapter 13 petition.

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).

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. An examination of the docket sheet in the underlying bankruptcy case shows that the motion to voluntarily dismiss that is the subject of the underlying complaint was only pending six days when the complaint was filed and that it was granted on the same day. Because the complainant thus cannot show any delay, much less improper delay, his complaint is due to be dismissed as unsupported by sufficient evidence, 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.

Accordingly, 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: July 11, 2018