

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

In re:  
Complaint of Judicial Misconduct

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\*Nos. 06-18-90013/14  
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**MEMORANDUM AND ORDER**

This complaint of judicial misconduct was filed by **[REDACTED]** (“complainant”) against the Honorable **[REDACTED]** (“subject judges”), pursuant to 28 U.S.C. § 351. The complainant is a state prisoner whose pending habeas corpus petition, filed pursuant to 28 U.S.C. § 2254, was successively assigned to the subject judges. Complainant alleges that the subject judges have unreasonably delayed resolution of his 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 an improper motive or habitual delay in a significant number of unrelated cases, do not constitute misconduct cognizable in the judicial complaint process. See Rule 3(h)(3)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The complainant alleges neither an improper motive nor a pattern of habitual delay in multiple cases. Without such accompanying allegations, an allegation of delay in a single case is effectively a challenge to an official action of the subject judge, and is thus excluded as merits-related pursuant to Rules 3(h)(3)(A) and 11(c)(1)(B).

Accordingly, 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) and 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: September 10, 2018