

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

In re:  
Complaint of Judicial Misconduct

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\*No. 06-18-90015  
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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 complaint alleges that the subject judge unduly delayed the disposition of a post-judgment motion that the complainant filed.

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’s criminal proceeding was assigned to the subject judge. A judgment was entered in May 2013. In June 2016, the complainant moved to compel the government to file a motion for a sentence reduction. The government opposed the complainant’s motion in September 2016. The subject judge had not yet disposed of the motion in March 2018, when the complainant filed this misconduct complaint. Since that time, the complainant was released from prison and the subject judge granted his motion for early termination of supervised release.

An allegation of delay on the part of a subject judge does not allege cognizable misconduct unless the allegation concerns an improper motive or habitual delay in a significant number of cases. Rule 4(b)(2), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The complainant here alleges habitual delay in a significant number of cases. But that allegation is supported only by second-hand statements that

the subject judge “has a backlog of cases,” not by any specific facts. The complaint is thus subject to dismissal under Rule 11(c)(1)(D) as lacking sufficient evidence to raise an inference of misconduct. See also 28 U.S.C. § 352(b)(1)(A)(iii).

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/ Jeffrey S. Sutton*  
Chief Judge

Date: June 3, 2021