

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

In re:
Complaint of Judicial Misconduct

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*No. 06-18-90030
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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 has “deliberately stalled” the complainant’s civil action by refusing to rule on a motion for leave to proceed in forma pauperis.

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 filed a civil action and a motion for leave to proceed in forma pauperis in January 2018. The case was assigned to the subject judge. In March 2018, the complainant filed an amended complaint. On June 1, 2018, after the filing of this judicial-conduct complaint, the subject judge granted the motion for leave to proceed in forma pauperis.

The sole allegation of this judicial-conduct complaint is that the subject judge has unduly delayed ruling the complainant’s motion for leave to proceed in forma pauperis. 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 3(h)(3)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The complaint here does not allege an improper motive or habitual delay. The complaint is thus subject to dismissal under Rule 11(c)(1)(A) as not alleging cognizable misconduct. See *also* 28 U.S.C. § 352(b)(1)(A)(iii). In any event, the record does not reflect undue delay in the ruling on the complainant’s motion.

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)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: November 5, 2018