

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

In re:  
Complaint of Judicial Misconduct

\*  
\*  
\*No. 06-18-90067  
\*  
\*  
\*  
\*

**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 subject judge is currently presiding over a pending employment discrimination action filed by the complainant. The complainant charges that the subject judge, after adopting a magistrate judge’s recommendation that the defendants in the underlying action be served, took no further action in his case. At the time the complaint was filed, approximately six months had elapsed without any action in the case.

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: January 9, 2019