JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:	*	
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Complaint of Judicial Misconduct	*	06-25-90007
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [redacted] ("complainant") against [redacted] ("subject judge"), under 28 U.S.C. § 351. The complainant alleges the subject judge delayed issuing a ruling in her underlying case in retaliation for challenging his judgment.

After conducting an initial review, the chief judge may dismiss a complaint of judicial misconduct 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." Rules 11(c)(1)(A)–(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings ("Judicial-Conduct Rules"); *see* 28 U.S.C. § 352(a), (b).

The subject judge presided over the complainant's underlying case, one of about a dozen that the complainant filed in the district over a two-year period. The subject judge granted the defendants' motion for summary judgment and dismissed the case with prejudice. The complainant then repeatedly filed post-judgment motions until she was permanently enjoined by the court from making any new filing in any cases that had been closed without first seeking and obtaining the court's permission.

At issue in this misconduct complaint is the complainant's second motion to set aside the judgment, filed under Civil Rule 60(b). The subject judge denied the motion roughly two months after it was filed. The complainant now alleges that the subject judge intentionally delayed ruling on this motion in retaliation for the complainant's attempts to challenge his judgment.

A claim of delay is cognizable in judicial misconduct proceedings only if accompanied by an allegation that a particular decision was deliberately delayed with an improper motive, or that the subject judge has habitually delayed decisions in a significant number of unrelated cases. *See* Judicial-Conduct Rule 4(b)(2). Conversely, a complaint of delay in a single case may be said to challenge the correctness of the subject judge's official action and is therefore merits-related. *See* Commentary to Judicial-Conduct Rule 4.

This complaint warrants dismissal. The complainant has identified no evidence to suggest that the subject judge was motivated by a desire for retaliation, and a review of the record reveals none. A delay of two months, especially considering the complainant's numerous filings during this same time, is not indicative of impropriety. This complaint is therefore dismissed as lacking sufficient evidence to raise an inference of misconduct. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Accordingly, it is **ORDERED** that the complaint be dismissed under 28 U.S.C. § 352(b)(1)(A)(iii) and Judicial-Conduct Rule 11(c)(1)(D).

/s/ Jeffrey S. Sutton
Chief Judge

Date: April 11, 2025