

U. S. COURT OF APPEALS
FILED

JUN 21 2019

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

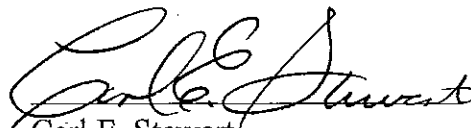
Docket Number: 05-18-90073

MEMORANDUM

Complainant, a private citizen, complains that there has been an “eleven year delay” in judicial action by the subject United States District Judge in a 28 U.S.C. § 2254 proceeding. He alleges that such undue delay in judicial action is “prejudicial to the effective and expeditious administration of the business of the courts.” After the complaint was filed, the subject judge entered final judgment in the case. Review of the docket indicates that prior to issuing the opinion, the subject judge had taken no action in the case for eight years.

Although an eight-year delay in judicial action is inexcusable, it does not, of itself, constitute judicial misconduct. Pursuant to Rule 4(b)(2) (formerly Rule 3(h)(3)(B)) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings, an allegation about delay in rendering a decision or ruling is not cognizable misconduct “unless the allegation concerns improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” As complainant does not allege the former, and there is insufficient evidence of the latter, the complaint is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

An order dismissing the complaint is entered simultaneously herewith.


Carl E. Stewart
Chief Judge

June 17, 2019

U. S. COURT OF APPEALS
FILED

AUG 05 2019

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-18-90073

Petition for Review by [REDACTED]
of the Final Order Filed June 21, 2019,
Dismissing Judicial Misconduct Complaint
Against [REDACTED]
Under the Judicial Improvements Act of 2002.

ORDER

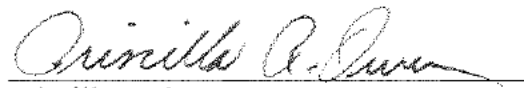
An Appellate Review Panel of the Judicial Council for the Fifth Circuit has reviewed the above-captioned petition for review, and all the members of the Panel have voted to affirm the order of Chief Judge Carl E. Stewart, filed June 21, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

Date

7-30-2019



Priscilla R. Owen
United States Circuit Judge
For the Judicial Council of the Fifth Circuit