

JUN 27 2019

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT


Complaint Number: 05-19-90075

MEMORANDUM

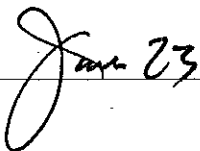
Complainant, a state prisoner, complains that his 28 U.S.C. § 2254 action “has been sitting in [the district] court for 9 months” and the subject United States District Judge “is not doing anything on my case.” He protests that the delay is a denial of his due process rights and is due to the judge’s “bias against [me] because [I am] a pro se litigant.” Complainant also posits that because respondent’s counsel “has not filed anything in the court to move the case along to a conclusion on the merits of my writ ... I suspect there is some ex parte communication taking place between the judge and [counsel].”

The docket records that complainant’s reply to the respondent’s response was filed seven months ago and the judge has yet to enter judgment. However, in the interim, the judge ruled promptly on complainant’s recusal and discovery motions. Regardless, a seven-month delay in rendering judgment does not, of itself, constitute judicial misconduct, and complainant’s conclusory allegations of improper motive and ex parte communication lack sufficient evidence to raise an inference that misconduct has occurred. The complaint is therefore 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

 23, 2019

AUG 05 2019

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-19-90075

Petition for Review by [REDACTED]
of the Final Order Filed June 27, 2019,
Dismissing Judicial Misconduct Complaint

Against [REDACTED]

Under the Judicial Improvements Act of 2002.

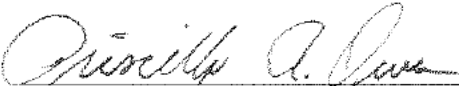
ORDER

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 27, 2019, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

7-30-2019
Date


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