

FILED

April 5, 2023

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-23-90015

MEMORANDUM

Complainant, a former state prisoner, alleges misconduct by the subject United States District Judge in a 28 U.S.C. § 2254 proceeding.

A review of the underlying docket indicates that the matter was ripe for consideration after complainant filed a reply to the Defendant's response on June 21, 2013. Complainant recounts that despite notifying the court that he was due to be released from prison on August 3, 2013, the judge did not enter final judgment—dismissing the § 2254 petition as moot—until September 5, 2013. Complainant contends that the judge intentionally delayed issuing the ruling, thereby depriving him of access to the court.

A delay of eleven weeks in rendering a decision does not, of itself, constitute judicial misconduct. There is no evidence to suggest either that the delay in judicial action was due to lack of diligence or that the judge intended to deny complainant access to the court, and the complaint is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii). *See* Rule 4(b)(2) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.



Priscilla Richman

Chief United States Circuit Judge

April 5, 2023

