

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

JAN 11 2016

Docket Number: 05-16-90024

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

MEMORANDUM

Complainant, a state prisoner, complains that his petition for a writ of habeas corpus has been pending before the subject United States District Judge for over two and a half years. He further complains that the judge has not ruled on his numerous motions for an evidentiary hearing and for sanctions against opposing counsel, and is “intentionally refusing to remove the stay” following the Fifth Circuit’s denial of his petition for a writ of mandamus.

Although the docket indicates that there has been delay in ruling on some motions, such delay is not evidence of judicial misconduct and, indeed, the Fifth Circuit panel found that the delay was attributable, in part, to complainant’s conduct in filing copious motions. The conclusory assertion that the judge has intentionally delayed ruling in the proceeding is insufficient to support a finding of judicial misconduct. These allegations are 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

December 9, 2015

FEB 24 2016

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL
OF THE FIFTH CIRCUIT

No. 05-16-90024

Petition for Review by [REDACTED]
of the Final Order Filed January 11, 2016
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 Stewart, filed January 11, 2016, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

February 18, 2016
Date

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