

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED
NOV 02 2016
FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

Docket Number: 05-16-90119

MEMORANDUM

Complainant, a state prisoner, alleges that the subject United States District Judge. Complainant violated the Federal Rules of Civil Procedure by failing to schedule a pretrial conference within 120 days after the defendants were served with the complaint.

The allegation relates directly to the merits of the judge's scheduling decision, and is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant further alleges that the judge has unduly delayed ruling on his pending motions.

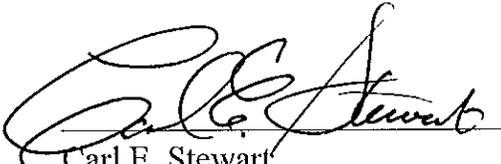
A delay of five months in rendering a ruling is not evidence of judicial misconduct, and the allegation is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii). See Rule 3(h)(3)(B) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings.

Judicial misconduct proceedings are not a substitute for the normal appellate review process, nor may they be used to obtain reversal of a decision or a new trial.

This is complainant's third judicial misconduct complaint in 15 months, and his second complaint regarding the same judge in the same proceeding. He has been warned previously against filing further merits-related complaints. Complainant's right to file complaints is hereby **SUSPENDED** pursuant to Rule 10(a), Rules For Judicial-Conduct or Judicial-Disability Proceedings. Complainant may show cause, through a

petition for review submitted pursuant to Rule 18, why his right to file further complaints should not be so limited.

An order dismissing the complaint is entered simultaneously herewith.



Carl E. Stewart
Chief Judge

August 29, 2016