

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

AUG 01 2017

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

Complaint Number: 05-17-90048

MEMORANDUM

Complainant, a state prisoner, complains that the subject United States District Judge has unduly delayed entering a ruling on complainant's pending petition for a writ of habeas corpus. He submits that the two-year delay in judicial action demonstrates that the judge "has abandoned his judicial duties" in violation of his oath of office, and has conspired with the respondent to "hold [me] in such slavery/servitude in violation of [the RICO] Act" and "in violation of [my] liberty interest in a condition that is commonly called false imprisonment."

Although a delay is always undesirable, a two-year delay does not, of itself, constitute judicial misconduct. The undersigned notes that the district in question has several vacant judgeships, and the existing judges have been carrying the additional workload of those vacant positions for several years. There is simply no evidence that the delay in judicial action is due to a lack of diligence, let alone a conspiracy to violate complainant's rights, and the 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

July 29, 2017