

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

OCT 30 2017

Complaint Numbers: 05-17-90136 through 05-17-90140

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

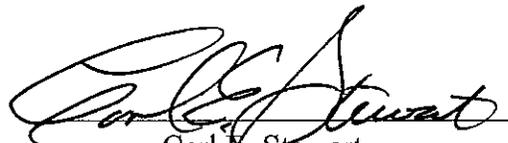
MEMORANDUM

Complainant, a state prisoner, complains of three United States Circuit Judges, who served on a motions panel that twice denied complainant's motions to dismiss the state's appeal from the district court's grant of his habeas corpus petition. He further complains of two additional United States Circuit Judges, who were members of the merits panel that affirmed the grant of habeas relief, but also affirmed the district court's order staying habeas relief pending the appeal. He urges that the motions panel should have granted his motions to dismiss the appeal. With respect to the members of the merits panel, he complains that the court did not decide the case for over 12 months after he filed his motion to dismiss, and that it misinterpreted his state sentence and should therefore have reversed the stay.

The complaints about the motions panel's denial of the motions to dismiss, and the merits panel's affirmance of the stay, are subject to dismissal as related to the merits of the judges' decisions under 28 U.S.C. § 352(b)(1)(A)(ii). To the extent that the complaint alleges that the merits panel delayed in deciding the appeal, mere delay in rendering a decision or ruling does not constitute judicial misconduct per Rule 3(h)(3)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings, and the allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

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.

An order dismissing the complaint is entered simultaneously herewith.



Carl E. Stewart
Chief Judge

October 26, 2017