

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Docket Number: 05-18-90001

U. S. COURT OF APPEALS
FILED
OCT 30 2017
FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

MEMORANDUM

Complainant, a state prisoner, complains that the subject United States District Judge took no judicial action “for almost 1-year” in a pending prisoner civil rights action. He further asserts that the delay demonstrates that “due to [my] socioeconomical [sic] status,” the judge “acted with prejudice and [was] deliberately indifferent” to safety concerns raised in complainant’s pleadings.

Although a delay is always undesirable, a 10-month delay in judicial action 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 bias or indifference towards complainant, 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

October 26, 2017

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FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

BEFORE THE JUDICIAL COUNCIL

OF THE FIFTH CIRCUIT

No. 05-18-90001

Petition for Review by [REDACTED]
of the Final Order Filed October 30, 2017,
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 October 30, 2017, dismissing the Complaint of [REDACTED] against [REDACTED] under the Judicial Improvements Act of 2002.

The Order is therefore

AFFIRMED.

March 5, 2018
Date

Priscilla R. Owen

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