

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Docket Number: 05-18-90070

U. S. COURT OF APPEALS
FILED

JAN 14 2019

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

MEMORANDUM

Complainant, a state prisoner, complains that the subject United States District Judge took no action in complainant's pending prisoner civil rights case until four months after it was filed.


Pursuant to Rule 3(h)(3)(B) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings, an allegation about delay in rendering a decision or ruling is not cognizable misconduct "unless the allegation concerns an improper motive or habitual delay." As complainant does not allege the former, and there is no evidence of the latter, the allegation is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant further complains that the judge "made a complete error of [l]aw when he dismissed my [d]ue process claims as friv[o]lous and for failure to state a claim."

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

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


Jimmy G., 2018