

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS  
FILED

FEB 22 2019

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Docket Number: 05-19-90034

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FIFTH CIRCUIT  
LYLE W. CAYCE, CLERK

MEMORANDUM

Complainant, a *pro se* litigant, complains that the subject United States District Judge has unduly delayed ruling on his appeal from an order staying the underlying case.

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).

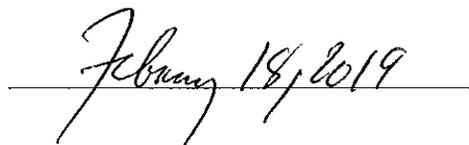
Complainant further alleges that despite purportedly being aware that complainant filed a judicial misconduct complaint against the United States Magistrate Judge assigned to preliminary matters in the underlying proceeding, but the judge has improperly “allowed [the magistrate judge] to continue to rule on [complainant’s] pleadings.”

To the extent, if any, that the judge is aware of complainant’s judicial misconduct complaint against the magistrate judge, the allegation relates directly to the merits of the judge’s implied decision not to order the magistrate judge’s recusal 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

  
February 18, 2019