

FILED

June 5, 2020

Lyle W. Cayce
Clerk

**JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT**

Complaint Numbers: 05-20-90103 and 05-20-90104

M E M O R A N D U M

Complainant, a state prisoner, complains that the subject United States District Judge and United States Magistrate Judge have unduly delayed taking action in his 28 U.S.C. § 2254 proceeding and, “[a]t the very least [I] should have been granted a Rule 8 evidentiary hearing . . . and an attorney appointed to assist [me].” A review of the docket shows that there has been no judicial action in the proceeding since July 2019.

To the extent that the complaint relates directly to the merits of decisions or procedural rulings, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, a delay of ten months in rendering a decision is not evidence of judicial misconduct, and that allegation is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii). *See* Rule 4(b)(2) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings.

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.



Priscilla R. Owen
Chief United States Circuit Judge

June 3, 2020