Judicial Council for the Fifth Circuit

FILED
April 5, 2023
Lyle W. Cayce
Clerk

Complaint Number: 05-23-90015

MEMORANDUM

Complainant, a former state prisoner, alleges misconduct by the subject United States District Judge in a 28 U.S.C. § 2254 proceeding.

A review of the underlying docket indicates that the matter was ripe for consideration after complainant filed a reply to the Defendant's response on June 21, 2013. Complainant recounts that despite notifying the court that he was due to be released from prison on August 3, 2013, the judge did not enter final judgment—dismissing the § 2254 petition as moot—until September 5, 2013. Complainant contends that the judge intentionally delayed issuing the ruling, thereby depriving him of access to the court.

A delay of eleven weeks in rendering a decision does not, of itself, constitute judicial misconduct. There is no evidence to suggest either that the delay in judicial action was due to lack of diligence or that the judge intended to deny complainant access to the court, and the complaint is therefore 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.

An order dismissing the complaint is entered simultaneously herewith.

Priscilla Richman

Chief United States Circuit Judge

Princilla Richman

Before the Judicial Council of the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 28, 2023

Lyle W. Cayce Clerk

Complaint Number: 05-23-90015

Petition for Review by regarding
Complaint of Misconduct and/or Disability Against

Under the Judicial Improvements Act of 2002, 28 U.S.C. §§ 351-364.

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 Priscilla R. Owen, filed April 5, 2023, dismissing the Complaint of

under the Judicial Improvements Act of 2002.

The Order is therefore AFFIRMED.

Jennifer W. Elrod

United States Circuit Judge

For the Judicial Council of the Fifth Circuit