

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

OCT 30 2017

Complaint Number: 05-18-90002

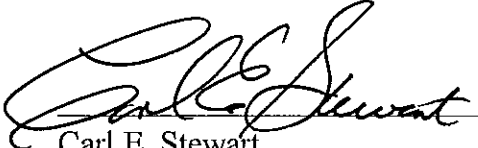
FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

MEMORANDUM

Complainant, a state prisoner, complains that the subject United States District Judge unduly delayed ordering service on the defendants or rendering a decision in a prisoner civil rights action. Complainant alleges that the delay was due to “improper motive” and violated his right to due process.

Although a delay is always undesirable, a 12-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 improper motive, 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