

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED

JAN 16 2019

FIFTH CIRCUIT
LYLE W. CAYCE, CLERK

Docket Number: 05-18-90124

MEMORANDUM

Complainant, a state prisoner, complains that the subject United States Magistrate Judge “hasn’t ruled on any motions filed, taken any actions in this case ... I’ve tried to remain patient but its [sic] been approximately three months and there hasn’t even been a scheduling order.”

Contrary to complainant’s assertion that the magistrate judge has taken no judicial action, a review of the docket indicates that the magistrate judge ruled promptly on his motions to proceed in forma pauperis and to appoint counsel. At the time complainant signed the instant complaint, the defendants’ motions to dismiss and to stay discovery had been pending, respectively, for six weeks and three weeks since complainant’s responses were docketed. His motion for a scheduling order had been pending three weeks.


Pursuant to Rule 3(h)(3)(B) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings, delays of three weeks and six weeks in rendering decisions are not evidence of judicial misconduct, and the allegation is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

This is complainant’s second complaint in four months alleging that minor delays in judicial action constitute evidence of judicial misconduct. This is an abuse of the complaint process. Complainant is WARNED that should he file a further complaint alleging undue delay where none exists, his right to file complaints may be suspended

and, unless he is able to show cause why he should not be barred from filing future complaints, the suspension will continue indefinitely. See Rule 10(a), Rules For Judicial-Conduct or Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.

July 12, 2018


Carl E. Stewart
Chief Judge