

Judicial Council for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 15, 2023

Lyle W. Cayce
Clerk

Complaint Number: 05-22-90118

MEMORANDUM

Complainant, a federal prisoner, alleges misconduct by the subject United States District Judge in post-conviction proceedings.

Complainant alleges that the judge's "complete and utter failure and refusal to timely rule on *virtually everything I file* (in one case for *approx. 13 months*) demonstrates his standing bias or party animus to the prejudice of my rights to timely due process, procedural due process, which reveals a certain lack of impartiality and a predisposition which affects my substantive rights to equal justice under the law." Complainant emphasizes that he is not challenging the merits of the judge's (unduly delayed) denial of his 2020 and 2021 motions for compassionate release and for reduction of sentence; rather, complainant asserts that adverse ruling was made "in spite after [my] repeated inquiries."

While a delay of thirteen months in rendering a decision is undesirable, it does not, of itself, constitute judicial misconduct. There is no evidence to suggest that any delays in judicial action were due to lack of diligence or an intent to deny complainant access to the court, or that the judge denied complainant's motions "in spite." The complaint 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.

An order dismissing the complaint is entered simultaneously herewith.

/s/ Priscilla Richman

Priscilla Richman

Chief United States Circuit Judge

March 15, 2023