

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS

FILED

FEB 27 2018

FIFTH CIRCUIT
LYLE W. GAYCE, CLERK

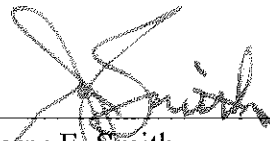
Docket Number: 05-18-90038

MEMORANDUM

Complainant, a defendant in a civil enforcement proceeding, complains that the subject United States District Judge delayed ruling on his first motion to dismiss for 22 months, and has delayed ruling on a second motion to dismiss for approximately two months. The delays do not in themselves constitute evidence of judicial misconduct, see Rule 3(h)(3)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Complainant asserts that the judge delayed ruling on the first motion to dismiss for the improper purpose of causing complainant's counsel to withdraw for lack of funds, so that the ruling "could not be challenged by experienced counsel." The docket reflects that complainant continued to be represented by counsel for over two years after the ruling on the first motion to dismiss. In any case, complainant has pointed to no evidence, other than the delay itself, that the judge acted with an improper motive. The complaint is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

An order dismissing the complaint is entered simultaneously herewith.



Jetry E. Smith
United States Circuit Judge

2-21, 2018