

could prepare and file a timely motion under 28 U.S.C. § 2255.¹ Complainant alleges that the district judge has not acted on the requests in an effort to prevent complainant from pursuing post-conviction relief in retaliation for complainant's filing of judicial misconduct complaints and Bivens actions against the judge.

A complaint of delay in a single case is not covered by the Judicial Conduct and Disability Act because such a claim is related to the merits of the judge's rulings, i.e., to the correctness of the priority assigned by the judge to the matter. 28 U.S.C. § 352(b)(1)(A)(ii); Commentary on Rule 3, Rules for Judicial-Conduct and Judicial-Disability Proceedings. An allegation of delay cannot be pursued through a judicial complaint, "unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases." Rule 3(h)(3)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Such an allegation must be supported by sufficient evidence to raise an inference of misconduct. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Doe, 640 F.3d 869, 873 (8th Cir. 2011).

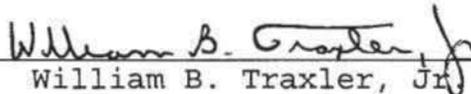
Here, the complainant challenges the judge's motive by alleging that the judge is trying to prevent his filing of a timely § 2255 motion in retaliation for prior complaints brought

¹ The district court docket reflects a request for free copies filed in February 2015.

against the judge. He has offered, however, no factual basis for such a claim. Complainant's filing of prior complaints against the judge is insufficient to raise an inference of retaliatory motive.

Accordingly, this complaint is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii).

IT IS SO ORDERED.



William B. Traxler, Jr.
Chief Judge