

in March 2015. On June 19, 2015, complainant moved to recuse the district judge, alleging that the judge was retaliating against him for a prior complaint by delaying ruling on his emergency motion for preliminary injunctive relief. On June 23, 2015, the district judge denied the motion for recusal. He also denied the motion for emergency injunctive relief, finding that complainant had failed to demonstrate a likelihood of success on the merits or a likelihood of irreparable harm in the absence of preliminary injunctive relief.

Complainant submitted this judicial complaint prior to receiving the district judge's order denying the motion for preliminary injunction. He alleged that the district judge was intentionally delaying ruling on his motion in retaliation for a prior complaint against the district judge.¹ He asked for the disqualification of the district judge and the appointment of a magistrate judge to rule on his request for preliminary injunctive relief.

The Judicial Conduct and Disability Act excludes from its coverage allegations that are "[d]irectly related to the merits of a decision or procedural ruling." 28 U.S.C. § 352(b)(1)(A)(ii). An allegation of delay in rendering a

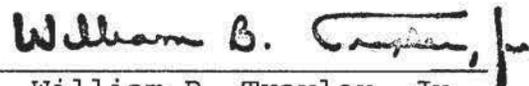
¹ Complainant does not identify the nature of his prior complaint against the judge or where or when it was filed.

decision is not cognizable "unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases."² Rule 3(h)(3)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Any claim of improper motive or habitual delay must be supported by "sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant has offered no evidence in support of his bare allegation that the judge was retaliating against him because of a prior complaint. The district court record discloses no basis for a finding of misconduct in connection with either the timing or substance of the judge's ruling.

Accordingly, this complaint is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii) as merits-related and lacking in factual support.

IT IS SO ORDERED.



William B. Traxler, Jr.
Chief Judge

² Allegations of delay in a single case are considered merits-related because they challenge the priority assigned by the judge to deciding a particular case.