



his case from that of his co-plaintiff. The motions are currently pending with the district judge.

Complainant alleges in his judicial complaint that the judge has not acted on his motions out of prejudice against complainant and his co-plaintiff based on sexual orientation and gang affiliation. He also states that he inadvertently attached a document relating to a judicial complaint filed in another circuit to his district court papers, and that the judge is biased against him based on his filing of judicial complaints.

The Judicial Conduct and Disability Act excludes from its coverage allegations that are "directly 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 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."\* 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).

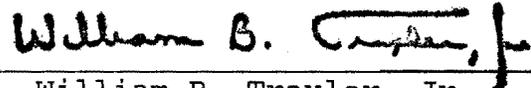
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\* Allegations of delay in a single case are considered merits-related because they challenge the priority assigned by the judge to deciding a particular case.

Complainant has offered no evidence to support his claim that the judge is biased against him due to his sexual orientation, gang affiliation, or filing of judicial complaints. Complainant also has presented no evidence of habitual delay on the part of the judge. Absent such evidence, complainant's allegation of unreasonable delay is a merits-related claim that is not subject to review through a misconduct proceeding.

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.



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William B. Traxler, Jr.  
Chief Judge