

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS  
**FILED**  
AUG 01 2017  
FIFTH CIRCUIT  
LYLE W. CAYCE, CLERK

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Complaint Number: 05-17-90068

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MEMORANDUM

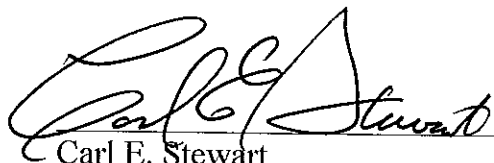
Complainant, a federal prisoner, complains that the subject United States District Judge has unduly delayed ruling on a 28 U.S.C. § 2255 motion he filed in July 2016. Complainant claims that when his family contacted the district court clerk's office, they were advised that "a great many of [the judge's] cases are suffering from neglect due to some malady the judge is suffering." He reports further that when he recently sought information about the judge's "malady" from the clerk's office, the deputy clerk who took his call advised him that "she was not permitted to reveal any information, specifically, about [the judge's] issues/disability." Complainant concludes that "[i]t seems rather obvious that [the judge] must be suffering from some serious disability," or the judge would have complied with the Fed. R. Civ. P. and taken prompt action on the motion.

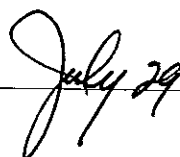
It is the policy of federal court clerks' offices not to provide private information about judicial officers to members of the public. As such, complainant's assertion that his family was told that the judge is suffering from a "serious disability" is not credible on its face, and is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

To the extent that complainant is complaining about a ten-month delay in judicial action on his § 2255 motion, although a delay is always undesirable, a ten-month delay does not, of itself, constitute judicial misconduct. The undersigned notes that the judge is the sole district judge in the division of the particular district court and the judge's

caseload is markedly higher than that of other district judges in the same district. There is simply no evidence that the delay in judicial action is due to a lack of diligence, and the allegation is therefore also subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii). See Rule 3(h)(3)(B) of the Rules For Judicial-Conduct and Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.

  
Carl E. Stewart  
Chief Judge

 July 29, 2017