

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT
219 South Dearborn Street
Chicago, Illinois 60604

May 9, 2023

Chief Judge Diane S. Sykes

No. 07-23-90010

IN RE COMPLAINT AGAINST A JUDGE

MEMORANDUM AND ORDER

The complainant filed a misconduct complaint against the judge who is presiding over her employment-discrimination case. She accuses him of unreasonably delaying a decision on the defendant's motion to dismiss and wrongly denying her request to amend her complaint while that motion was pending. (After this misconduct complaint was filed, the judge granted the defendant's dismissal motion but gave the complainant an opportunity to amend her complaint.) She also accuses the judge of "political or personal bias" because the court and the defendant (her former employer) have adopted similar COVID-19 "measures," which her lawsuit alleges are discriminatory in nature.

Allegations of error and/or delay in a judge's substantive and procedural rulings are not proper grounds for a misconduct complaint. Allegations directly related to the merits of a judge's decisions do not raise an inference of cognizable misconduct and must be dismissed. 28 U.S.C. § 352(b)(1)(A)(ii). "Any allegation that calls into question the correctness of an official action of a judge ... is merits related." RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. r. 4(b)(1) cmt. Allegations of delay are considered merits related. *See id.* r. 4(b)(2) ("Cognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.").

The allegations of bias are wholly unsupported and frivolous. 28 U.S.C. § 352(b)(1)(A)(iii); *see* RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. r. 11(c)(1)(D). The district court's implementation of COVID-19 policies that may be similar to those of the

complainant's former employer does not suggest that the judge is biased against the complainant or her claims in the litigation.

For the foregoing reasons, the complaint is dismissed pursuant to § 352(b)(1)(A)(ii) and (iii). The complainant may petition the Judicial Council of the Seventh Circuit for review of this order in accordance with Rule 18(b) of the *Rules for Judicial-Conduct and Judicial-Disability Proceedings*. 28 U.S.C § 352(c); see RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. r. 11(g)(3). A petition for review must be filed in the clerk's office of the United States Court of Appeals for the Seventh Circuit not later than 42 days of the date of this order.