

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

June 20, 2023

Chief Judge Diane S. Sykes

No. 07-23-90019

IN RE COMPLAINT AGAINST A JUDGE

MEMORANDUM AND ORDER

The complainant filed a misconduct complaint against the magistrate judge designated as available to preside in her two civil cases. She complains of delay in the court's ruling on the defendants' motions to dismiss; she also repeats her allegations against the defendants in her cases.

There are two problems with this misconduct complaint. The first is that the magistrate judge is not handling the complainant's cases. The assigned magistrate judge is *available* to preside if the parties jointly consent, but no consent form has been filed so the assigned district judge continues to preside. The second problem is that allegations concerning the merits of a judge's procedural and substantive decisions are not a proper basis for a misconduct complaint. The complainant's allegations relate to the merits of her cases. More specifically, claims of delay are considered merits related and do not raise an inference of misconduct. 28 U.S.C. § 352(b)(1)(A)(ii); *see also* RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. r. 4(b)(2) cmt. ("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.").

For the foregoing reasons, the complaint is dismissed as both merits related, § 352(b)(1)(A)(ii), and lacking any factual foundation, *id.* § 352(b)(1)(B). 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*. *Id.* § 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.