

BEFORE THE CHIEF JUDGE OF THE
UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

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OFFICE OF THE
CIRCUIT EXECUTIVE
TENTH CIRCUIT

MEMORANDUM OF REASONS FOR ORDER OF DISMISSAL
OF COMPLAINT IN PROCEEDING NO. 92-10-372-7

The complaint, the response and the reply to the response filed in the above numbered proceeding have been considered by the undersigned Chief Judge and it is concluded that the complaint should be dismissed pursuant to 28 U.S.C. § 372(c)(3). The reasons for such dismissal follow.

The complaint is made in connection with a civil suit filed by the Complainant in the United States District Court

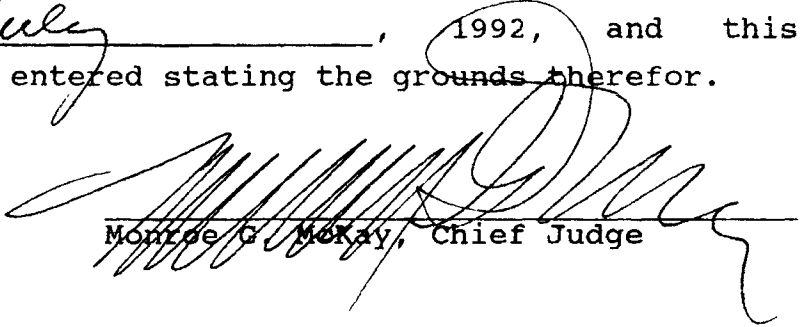
The complaint alleges that Complainant obtained a jury verdict in his favor in the civil suit in April 1991 but that judgment was not entered despite subsequent motions filed for that purpose and letter and telephone requests over the next several months, and that the case was settled in March 1992 for a lesser amount and an agreement of no appeal. The complaint alleges that Respondent Judge should have entered judgment timely or at least have acted on the motions.

The response to the complaint states that Respondent Judge was precluded from resolving the case by entering judgment because motions by Complainant were pending for an award of prejudgment interest on the jury's verdict and to review the Clerk's taxation of costs, and because Respondent Judge was evaluating the possibility of granting judgment in favor of defendant, notwithstanding the jury's verdict, as vigorously argued by defendant. The pending motions of complainant were attached to his complaint and support the response of respondent judge.

The reply to the response states that Respondent Judge could have ruled on the motions which were independent of the verdict and thus allowed the judicial process to continue.

From consideration of the allegations in the complaint and the statements in the response, the undersigned Chief Judge has determined that respondent judge has not engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts and that the judge is not unable to discharge all the duties of his office, and that any action on the complaint is unnecessary because of intervening events. 28 U.S.C. § 372(c)(3). It is noted also that the complaint procedure may not be used to force a ruling on a particular motion or other matter that has been before the judge too long. Rule 1(e), Rules of the Judicial Council of the Tenth Circuit Governing Complaints of Judicial Misconduct or Disability.

Accordingly the complaint is dismissed on this 13th day of July, 1992, and this memorandum of reasons is entered stating the grounds therefor.



Monroe G. McKay, Chief Judge

ATTEST:

Eugene J. Murret

BEFORE THE CHIEF JUDGE OF THE
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FOR THE TENTH CIRCUIT

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CIRCUIT EXECUTIVE
TENTH CIRCUIT

Complainant,
vs.
United States District Judge,
Respondent.

No. 92-10-372-7

ORDER DISMISSING COMPLAINT

On consideration by the undersigned Chief Judge of the complaint of alleged judicial misconduct, the response, and the reply to the response, the undersigned has entered a Memorandum of Reasons in which it was concluded that the complaint should be dismissed pursuant to 28 U.S.C. § 372(c)(3), on the ground that the complaint fails to state any grounds for relief under § 372(c), and that any action on the complaint is no longer necessary because of intervening events.

Accordingly, it is ordered that the complaint is dismissed pursuant to 28 U.S.C. § 372(c)(3). The Circuit Executive is directed to transmit a copy of this order to the Complainant and to the Respondent Judge, and also the Circuit Executive shall advise the Complainant that if review is desired of the order of dismissal, it may be sought by filing a petition for review by the Judicial Council with the Circuit Executive within 30 days.

Dated this 13 day of July, 1992.


Murray S. McKay, Chief Judge