

JUDICIAL COUNCIL OF THE SIXTH CIRCUIT
MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:
Complaints of Judicial Misconduct

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*Nos. 06-13-90002/07
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M E M O R A N D U M

These consolidated complaints were filed with the Judicial Council of the Sixth Circuit pursuant to the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, P.L. 96-458, as amended by the Judicial Improvements Act of 2002, Pub. L. No. 107-203, the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and the Rules Governing Complaints of Judicial Misconduct adopted by the Judicial Council of the Sixth Circuit.

After conducting an initial review, the chief judge may dismiss a complaint as to which he concludes:

- (1) that the claimed conduct, even if the claim is true, is not “conduct prejudicial to the effective and expeditious administration of the business of the courts” and does not indicate a mental or physical disability resulting in inability to discharge the duties of office;
- (2) that the complaint is directly related to the merits of a decision or procedural ruling;
- (3) that the complaint is frivolous, a term that includes making charges that are wholly unsupported.

Rule 4(c), Rules Governing Complaints of Judicial Misconduct or Disability.

These related complaints were filed by a pro se prisoner against a magistrate judge and district judge who presided over civil rights actions he filed. In his first complaint of judicial misconduct, the complainant asserted that the named district judge dismissed many of the claims he asserted in one of his civil rights actions in contravention of law, and further suppressed complainant’s ability to appeal. One week later, complainant filed a second complaint in which he named the same district judge, along with the presiding magistrate judge, who he alleges erroneously recommended that the district judge dismiss many of complainant’s claims in a separate civil rights action.

to 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Such decisions are not the proper subject of a complaint of judicial misconduct. See Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The Judicial Council is not a court and has no jurisdiction to review the named judges' rulings or to grant relief requested in the underlying proceedings. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). These complaints of judicial misconduct relate solely to the propriety of the named judges' decisions and constitute direct challenges to the merits of those decisions.

Accordingly, these complaints will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.



Alice M. Batchelder
Chief Judge

Date: 03-25-14