

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

In re:
Complaints of Judicial Misconduct

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*Nos. 06-13-90018/47
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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 federal prisoner first against a federal district judge who entered an order reassigning complainant’s 28 U.S.C. § 2255 motion to vacate his lengthy federal sentence, and second against the federal district judge who was assigned the case and who denied complainant’s motion. In his first complaint of judicial misconduct, the complainant asserted that the first named district judge inappropriately reassigned his case after recusing from a codefendant’s § 2255 proceeding, despite the fact that complainant did not join his codefendant’s motion to recuse. Complainant subsequently filed a second complaint, and contends that the second judge denied his “motion after sitting on it for four years,” and that both named judges manipulated and steered his case to deny him a fair and impartial ruling. The first named

judge has responded to this complaint of judicial misconduct to the effect that complainant's case was reassigned to the second named judge because the latter was newly appointed to the bench.

These complaints of judicial misconduct are subject to dismissal as "lacking sufficient evidence to raise an inference that misconduct has occurred" pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. A review of the pertinent court records confirms that complainant's contentions are meritless. First, complainant's § 2255 proceeding was not, in fact, reassigned because the first named judge recused. Rather, the case was reassigned when the second named judge joined the bench. Complainant's assertion that the second named judge did not adjudicate the case in a timely fashion is also belied by the record. Under these circumstances, the complaints must be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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



Alice M. Batchelder
Chief Judge

Date: 03-25-14