

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

In re:
Complaint of Judicial Misconduct

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*No. 06-13-90029
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M E M O R A N D U M

This complaint was 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.

This complaint was filed by a pro se litigant against a district judge who presided over his civil rights action (and against whom the complainant filed a subsequent, separate civil action). Although the complaint is difficult to interpret, it appears that complainant is challenging the subject judge’s rulings in the underlying civil action, rulings which, complainant contends, involved “fabricated - fractitious [sic], ascending, collusive, esoterical [sic], deferential, and rampant invocations of 28 U.S.C. § 1915(e), and which “irrefutably obviat[ed] ultimate/undelayed [sic] compliance with Constitutional/substantive mandates.”

This complainant has filed at least five previous judicial complaints in this court, in one of which he named the same judge who is the subject of the instant complaint. That

previous complaint also challenged the subject judge's rulings in the same underlying civil action, and was dismissed as directly related to the merits of the judge's rulings 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, and as raising non-cognizable allegations of delay under Rule 3(h)(3)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The instant complaint is substantially similar, if not virtually identical, to the previous complaint. Complaints that repeat the allegations of previous complaints may be dismissed if they contain no new, material information that was not previously considered. See Rule 11(c)(2), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The instant complaint contains no new information or allegations, and thus may be dismissed under Rule 11(c)(2). Even were it not a repetition of the previous complaint, the current complaint would still be appropriately dismissed as directly related to the merits of the judge's rulings 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, and as raising non-cognizable allegations of delay under Rule 3(h)(3)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, as was the original.

For these reasons, the complaint is dismissed as repetitive of the previous complaint pursuant to Rule 11(c)(2) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.



Alice M. Batchelder
Chief Judge

Date: 03-25-14