

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

In re:
Complaint of Judicial Misconduct

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*Nos. 06-13-90070/71
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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.

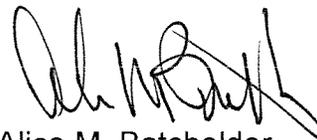
Rule 4(c), Rules Governing Complaints of Judicial Misconduct or Disability.

This complaint was filed by a pro se litigant against a magistrate judge and a district judge who presided over two civil actions complainant filed. In her complaint of judicial misconduct, complainant contends that the named magistrate judge should have recused because her son is an associate attorney in a law firm that represented a named defendant in her first case and that itself was a named defendant in the other. Complainant contends that the magistrate judge was biased against her and objects to rulings by both the named magistrate judge and the named district judge.

This complaint is subject to dismissal as directly related to the merits of the named judges’ decisions in complainant’s underlying cases 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.

Such decisions, including any allegedly improper failure to recuse, 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). It is noted that the named magistrate judge disclosed her son's employment, and that the issue was addressed at length in her order denying complainant's motion to recuse. This complaint of judicial misconduct is a direct challenge to the merits of the named judges' decisions, particularly the recusal decision, and will be dismissed as such.

Accordingly, this complaint will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and Rules 3(h)(3)(A) and 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.



Alice M. Batchelder
Chief Judge

Date: 08-01-14