

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

In re:
Complaint of Judicial Misconduct

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*No. 06-13-90089
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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 prisoner against a district judge who sentenced him following his guilty plea to conspiracy to forge and forgery of a United States District Judge’s signature. The substance of this complaint of judicial misconduct is that the named district judge defamed complainant and otherwise erred at his sentencing. A limited review of the pertinent district court record reveals that this complaint is both directly related to the merits of the named judge’s sentence and meritless.

Primarily, complainant objects to the named judge’s decision in his case on various grounds. Accordingly, this complaint is subject to dismissal in part as directly related to the merits of the named judge’s judgment in the underlying case 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 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 complainant's criminal sentence. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). Otherwise, a limited inquiry and review of the available court records pursuant to 28 U.S.C. § 352(a) reveals that this complaint must also be dismissed as lacking any factual foundation pursuant to 28 U.S.C. § 352(b)(1)(B) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. A review of the transcript of complainant's sentencing reveals nothing that a criminal defendant in complainant's circumstances should not expect to hear from a sentencing judge. In short, the record reflects nothing that suggests that any misconduct occurred. The complaint therefore will be dismissed in remaining part pursuant to 28 U.S.C. § 352(b)(1)(B) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

For these reasons, the complaint will be dismissed both as directly related to the merits of the named judge's decision and as lacking sufficient evidentiary basis pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (b)(1)(B) and Rules 3(h)(3)(A) and 11(c)(1)(B) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.



Alice M. Batchelder
Chief Judge

Date: 08-01-14