

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

In re:
Complaint of Judicial Misconduct

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*No. 06-13-90097
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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 federal prisoner against a district judge who denied his motion to set aside complainant's judgment of conviction and commitment order pursuant to Federal Rule of Civil Procedure 60(d)(1). Complainant contends that the named district judge willfully failed to "serve" complainant with a copy of the order in time to appeal the order.

Upon a limited inquiry and review of the available court records pursuant to 28 U.S.C. § 352(a), this complaint will be dismissed as without 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. To the extent that the conduct alleged is attributable to the named district judge himself, the pertinent court records belie the allegations. The district

court docket sheet reflects that a copy of the order at issue was mailed to complainant. In short, the record reflects nothing that suggests that any misconduct by the named district judge occurred. Under these circumstances, this complaint of judicial misconduct must be dismissed 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 handwritten signature in black ink, appearing to read 'Alice M. Batchelder', with a large, sweeping flourish at the end.

Alice M. Batchelder
Chief Judge

Date: 08-01-14