

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

In re:
Complaint of Judicial Misconduct

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*Nos. 06-13-90098/99
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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.

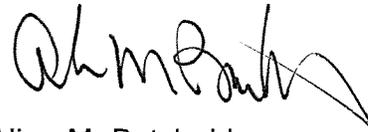
After conducting an initial review, the chief judge may dismiss a complaint as to which he concludes:

- (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 federal prisoner against a magistrate judge and a district judge who presided over the criminal proceedings that resulted in the lengthy term of imprisonment he currently is serving. In his complaint of judicial misconduct, complainant contends that transcripts of his initial appearance before the named magistrate judge and of a hearing regarding his motion to suppress evidence before the named district judge do not reflect statements that were made during those proceedings. In particular, complainant contends that the former transcript omits a remark by the prosecutor to the effect that complainant’s case was a state matter being prosecuted in the federal court, and that the latter transcript omits a question from the named district judge to clarify whether the defense had an objection based on whether it had received certain audio recordings from the prosecution.

Upon consideration, this complaint will be dismissed as alleging nothing that suggests that misconduct has occurred. Assuming that complainant's assertions are correct, an indulgent reading of the complaint and review of the pertinent court records reveals nothing that suggests that either named judge was in any way responsible for the omissions. 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.



Alice M. Batchelder
Chief Judge

Date: 08-01-14