

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

In re:
Complaint of Judicial Misconduct

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*No. 06-13-90101
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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 the magistrate judge who denied his Federal Rule of Civil Procedure 11 motion for sanctions he filed in a civil action. In his complaint of judicial misconduct, complainant contends that the named magistrate judge exceeded her jurisdiction, improperly warned complainant not to appeal or file any further motions, and is biased against him and other pro se and poor litigants.

Even read indulgently, this complaint is subject to dismissal as directly related to the merits of the magistrate judge’s denial of complainant’s motion for sanctions 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 a ruling by a judge, or to grant the relief requested in the underlying motion. *See In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). Complainant's complaint constitutes a direct challenge to the merits of the named magistrate judge's decision and will be dismissed as such. However, it is noted that complainant appealed the magistrate judge's decision, and the presiding district judge affirmed the magistrate judge's decision.

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



Alice M. Batchelder
Chief Judge

Date: 08-01-14