

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

In re:
Complaint of Judicial Misconduct

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*No. 06-13-90105
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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.

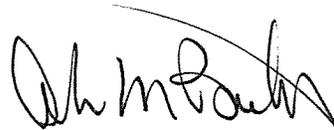
Rule 4(c), Rules Governing Complaints of Judicial Misconduct or Disability.

This complaint was filed by a federal detainee and vexatious pro se litigant who describes himself as “an expert witness in judicial misconduct” and “professional private investigator and legal consultant.” In his complaint of judicial misconduct, complainant alleges that the named district judge constructively amended another federal inmate’s indictment, suborned perjury, and instructed the inmate’s attorney not to address the constructive amendment on appeal. Complainant subsequently requested that his complaint be withdrawn. Rule 27(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings permits a complainant to withdraw a complaint pending before the Chief Judge with the Chief Judge’s consent. However, complainant at least implies that the reason he seeks to withdraw his complaint is that the other federal inmate at issue herein subjected him to “threats, duress and coercion.” Because withdrawal of the

complaint would leave the merits of this complaint of judicial misconduct unaddressed, leave to withdraw the complaint is denied. After a review of the pertinent court records as permitted under Rule 11(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, the complaint will be dismissed as baseless.

The complaint is subject to dismissal as lacking sufficient evidence that misconduct has occurred pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. "An allegation may be dismissed as 'inherently incredible' even if it is not literally impossible for the allegation to be true. An allegation is inherently incredible if no reasonable person would believe that the allegation, either on its face or in light of other available evidence, could be true." Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice, Judicial Conduct and Disability Act Study Committee, Sept. 2006, p. 148. A limited review of the pertinent court records confirms that complainant's allegations are devoid of factual support and are patently baseless or inherently incredible.

For these reasons, the complaint will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) 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