

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

In re:  
Complaint of Judicial Misconduct

\*  
\*  
\*Nos. 06-13-90112/113  
\*  
\*  
\*  
\*  
\*

**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 the pro se debtor in a Chapter 7 bankruptcy proceeding against the bankruptcy judge who presided over the proceeding and against a district judge who presiding over a related appeal. In her complaint of judicial misconduct, complainant contends that the named bankruptcy judge conspired with others to deny her rights in the underlying bankruptcy proceedings and that the judge was biased against her. Complainant also asserts that the named district judge was biased against her and improperly denied her leave to proceed in forma pauperis on appeal. The named bankruptcy judge has responded to the complaint.

Despite complainant’s protestations to the contrary, this complaint is subject to dismissal in large part as directly related to the merits of the named judges’ rulings in the

underlying matters 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 any rulings by a judge, or to grant the relief that may be requested in the underlying case. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). Most of complainant's challenges to the named judges' actions are more appropriately addressed in the context of the underlying bankruptcy and appeal. As this complaint primarily and directly relates to the merits of the named judges' rulings in the underlying proceedings, the complaint will be dismissed in part 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.

Otherwise, viewed in the context of the pertinent court records, complainant's assertions that the named judges either conspired against her or were biased against her are devoid of factual support and inherently incredible. "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. In fact, review of the available court records refute her assertions of conduct that she contends evinces bias. The complaint therefore will be dismissed in remaining part 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.

For these reasons, the complaint will be dismissed both as directly related to the merits of the named judges' decisions and as lacking sufficient evidentiary basis pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii) 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