

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

In re:  
Complaints of Judicial Misconduct

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\*  
\*Nos. 06-13-90115/116;  
\*06-14-90005 &  
\*06-14-90019/20  
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**M E M O R A N D U M**

These consolidated complaints were 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.

These complaints were filed by a pro se vexatious litigant against the magistrate judge and two district judges who presided over civil rights actions complainant filed in the district court. In one of his three complaints of judicial misconduct, complainant objects to a delay in effecting service of process in one of his cases. In his two other complaints of judicial misconduct, complainant directly challenges the merits of the named judges’ decisions in his cases. The named magistrate judge has responded to complainant’s first two complaints of judicial misconduct.

These complaints are subject to dismissal in part as directly related to the merits of the named judge’s rulings in the underlying prisoner civil rights action 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 assertions constitute direct challenges to the named judges' actions in his underlying civil rights actions. Under these circumstances, these complaints will be dismissed in pertinent 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.

Further, complainant's objection concerning the delay in effecting service of process is subject to dismissal as "lacking sufficient evidence to raise an inference 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. First, Rule 3(h)(3)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings specifically provides that a delay in making a ruling or decision, without more, does not constitute misconduct cognizable in the judicial complaint process. Review of the pertinent court record reveals no inordinate or inappropriate delay. The complaint therefore will also be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rules 3(h)(3)(B) and 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

For these reasons, these complaints will be dismissed 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.

A handwritten signature in black ink, appearing to read 'Alice M. Batchelder', written over a horizontal line.

Alice M. Batchelder  
Chief Judge

Date: 08-01-14