

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

In re:
Complaint of Judicial Misconduct

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*No. 06-13-90125
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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.

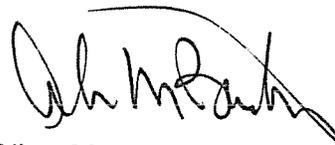
Rule 4(c), Rules Governing Complaints of Judicial Misconduct or Disability.

This complaint was filed by a pro se prisoner and frequent litigant against a district judge who presided over a civil rights action complainant filed in the district court. In his complaint of judicial misconduct, complainant contends that he experienced difficulties filing his civil rights complaint, and notes that the court of appeals vacated the named district judge’s determination that complainant did not adequately allege imminent danger of serious injury to avoid the statutory bar to filing he action in forma pauperis. Complainant contends that the named judge’s rulings and delays in his case evince bias against him due to his successful appeal and because he is a prisoner. Complainant avers that, during a televised interview, the named judge stated that most prisoner lawsuits are frivolous, and complainant objects to an order entered by the chief district judge referring future pro se civil rights actions to the named judge.

This complaint of judicial misconduct is subject to dismissal in part as directly related to the merits of the named judge's rulings in complainant's 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 relief requested in any underlying case. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). In fact, complainant successfully appealed one of those rulings, and may have an opportunity to appeal others in the future.

Otherwise, complainant's complaint is insufficiently supported by credible facts to warrant an investigation by a special committee appointed pursuant to 28 U.S.C. § 353. A review of the pertinent court records reflects that many of complainant's factual assertions are unsupported. The record reflects no undue delay attributable to the named district judge. Moreover, the named district judge's rulings do not, as complainant suggests, reflect bias. However, it is noted that the named district judge recused following this complaint of judicial misconduct. Under these circumstances, 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.

Accordingly, this complaint will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii) and Rule 11(c)(1)(B) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.



Alice M. Batchelder
Chief Judge

Date: 08-01-14