

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

In re:  
Complaint of Judicial Misconduct

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\*Nos. 06-13-90130/131  
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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 litigant against a magistrate judge and a district judge assigned to preside over a civil action complainant filed in the district court. In his complaint of judicial misconduct, complainant contends that the named judges have endeavored to end the case because he is pro se, because the case is complex, and to cover up allegedly illegal conduct by a law clerk. Complainant contends that defense counsel conspired with the law clerk to deny him due process with respect to his motion for a temporary restraining order. Complainant also objects that the named judges had not ruled on two motions to recuse he filed in the case. In subsequent correspondence, complainant submits a copy of the civil rights complaint he filed against the two named judges, the law clerk, and numerous other defendants, and alleges that the named judges have retaliated against him in rulings in his underlying civil action. A review of the pertinent

court records reflect that, before complainant filed this complaint of judicial misconduct, the named district judge denied complainant's motions to recuse.

This complaint, as supplemented, is subject to dismissal in part as directly related to the merits of the named judges' decisions in complainant's underlying civil 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, including the district judge's denial of complainant's motions 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 the named judges' rulings or to grant relief requested in the underlying proceedings. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). This complaint of judicial misconduct can be fairly read in large part as a direct challenge to the merits of the named judges' decisions in complainant's underlying civil action and will be dismissed in part as such.

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. "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 review of the pertinent court records reflects that complainant's conclusory conspiracy allegation is devoid of factual support. Neither are complainant's assertions of delay or bias supported in the record. Under these circumstances, the complaint 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 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