

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

In re:  
Complaints of Judicial Misconduct

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\*Nos. 06-13-90107 &  
\*06-14-90022/23/24  
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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 prisoner against the district judge who presided over a prisoner civil rights action complainant filed in the district court and against the three federal judges who comprised a panel of the court of appeals that affirmed the judgment in complainant’s civil rights action. In his initial complaint of judicial misconduct and in a supplemental filing, complainant contends that the named district judge’s rulings in his case were erroneous in many respects, but contends that his complaint is not directly related to the merits of the named judge’s rulings. Rather, complainant contends that the named judge’s rulings are prejudicial to the administration of the business of the courts and reflect bias. In his second complaint of judicial misconduct, complainant reiterates the

merits of his underlying case and directly challenges the merits of the appellate panel's decision on his appeal.

Contrary to complainant's contention, his initial complaint is subject to dismissal in large 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 challenges to the named judge's actions in his initial complaint of judicial misconduct were more appropriately addressed in the context of his appeal. Moreover, complainant's second complaint is subject to dismissal as directly related to the merits of the appellate panel's decision in its entirety. Under these circumstances, the initial complaint will be dismissed in part and the second complaint will be dismissed in toto 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 remaining conclusory contentions that the subject presiding district judge was biased are 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. Review of the available court records reveals that complainant's allegations are devoid of factual support and are inherently incredible. 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, 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.



Alice M. Batchelder  
Chief Judge

Date: 08-08-14