

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

In re:
Complaint of Judicial Misconduct

*
*
*Nos. 06-14-
*90027/28/29
*
*
*

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 federal prisoner who has been attempting to challenge his sentence in federal courts all over the country since it was imposed in 1988. The subject judges are the district judge and magistrate judge who were assigned to and dismissed his latest challenge, and the Chief Circuit Judge who has no apparent connection to any of the complainant’s cases. He also names the circuit executive, the clerk of the court, and circuit court employees. Because the governing rules only pertain to conduct of judges, that part of the complaint that challenges the conduct of non-judicial court personnel is not cognizable in these proceedings. Rule 4, Rules for Judicial-Conduct and Judicial-Disability Proceedings.

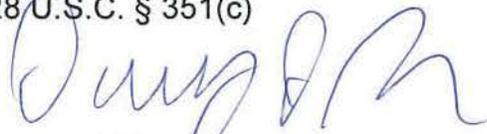
The complainant faults the magistrate judge for recommending dismissal of his latest 28 U.S.C. § 2241 habeas petition and the district judge for adopting the recommendation and dismissing the petition. Although the complainant names a circuit judge in the complaint, he makes no allegations against that judge and there is no apparent connection between that judge and any of the complainant's prior cases.

With respect to the district and magistrate judges, this complaint is subject to dismissal 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 as directly related to the merits of those judges' decisions in complainant's underlying action. 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 the named judges' rulings or to grant relief requested in the underlying case. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988).

The complainant has made no allegations against the Chief Circuit Judge. Because the complaint thus fails to allege that the Chief Circuit Judge has engaged in any conduct that is prejudicial to the effective and expeditious administration of the business of the courts, it is appropriately denied, as to the Chief Circuit Judge, under 28 U.S.C. § 352(b)(1)(A)(i) and Rule 11(c)(1)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Entered as Chief Judge Pursuant to
28 U.S.C. § 351(c)



Danny J. Boggs

Date: AUGUST 10, 2014