

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

In re:  
Complaint of Judicial Misconduct

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\*Nos. 06-14-  
\*90055/56/57  
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**M E M O R A N D U M**

This complaint of judicial misconduct was jointly filed by the lawyer and two family members of a pair of brothers who were convicted and sentenced for mail fraud. The complaint names the three circuit judges who sat on the panel that affirmed those defendants' convictions and sentences. The complainants challenge the panel's opinion, which, they contend, is rife with "fraudulent fact findings," and constitutes a "lengthy exercise of rank deception." Although they do not name the trial judge, the complainants also devote a good deal of their arguments to challenging the validity of the process that led to the clients'/family members' convictions, a process that they describe as "a baseless, shifting, forfeiture-driven prosecution."

After conducting an initial review, the chief judge may dismiss a complaint as to which he concludes: (A) that the claimed conduct, even if it occurred, "is not 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 judicial office"; (B) that the complaint "is directly related to the merits of a decision or procedural ruling"; (C) that the complaint is "frivolous," a term that applies to charges that are wholly unsupported; or (D) that the complaint "lack[s] sufficient evidence to raise an inference that misconduct has occurred." Rule 11(c)(1)(A)-(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The complaint is subject to dismissal as directly related to the merits of the named judges' decisions in the underlying criminal proceedings 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 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).

For these reasons, the complaint will be dismissed 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.

*/s/ R. Guy Cole, Jr.*  
Chief Judge

Date: October 16, 2014