

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

In re:
Complaint of Judicial Misconduct

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*No. 06-14-90060
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M E M O R A N D U M

This complaint of judicial misconduct was filed against the district judge who presided over an environmental cleanup action that was initiated in 1986 and resolved by consent judgment in 2008. The complainant, who was not a party to that action, alleges that the district judge “neglected 1000 years of radioactivity in the environment, which neglects public safety.”

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 “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred.” Rule 11(c)(1)(A)-(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

This is the complainant’s second judicial-misconduct complaint against the same district judge. The first complaint arose from the district judge’s ruling in a *qui tam* action that was related to the 1986 environmental litigation. The complainant, relator in the *qui tam* action, alleged that the district judge “entered into a de facto conspiracy” with the defendant and treated the complainant in a “demonstrably egregious and hostile manner” in granting the defendant’s motion for summary judgment. The judicial-misconduct complaint was dismissed as merits-related, under Rule 11(c)(1)(B), and as lacking sufficient evidence that misconduct had occurred, under Rule 11(c)(1)(D).

This complaint is likewise subject to dismissal under Rule 11(c)(1)(B). See *also* 28 U.S.C. § 352(b)(1)(A)(ii). The complainant’s unelaborated allegation that the district judge “neglected 1000 years of radioactivity in the environment” apparently refers to the judge’s

approval of a consent judgment that, in the complainant's view, does not adequately address a grave environmental threat. This is a quintessential merits-related complaint.

Accordingly, 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