

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

In re:  
Complaint of Judicial Misconduct

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\*No. 06-14-90090  
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**M E M O R A N D U M**

This complaint of judicial misconduct was filed by a prolific pro se litigant against a district judge who presided over at least two of the complainant's civil actions. The complaint alleges that the district judge acted with "personal bias and prejudice" against the complainant. More specifically, the complaint alleges that the district judge improperly imposed a \$1000 sanction against the complainant, provided information about the complainant to judges in other cases, and denied the complainant access to the courts.

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.

An initial review of the district-court record reveals that, in 2005, the complainant filed a petition for a writ of coram nobis in federal district court, seeking relief from a 1973 conviction for obtaining property under false pretenses. The district judge dismissed the petition and, because of the complainant's long history of repetitive and vexatious litigation regarding the 1973 conviction, imposed pre-filing restrictions on further actions challenging that conviction. When the complainant continued to file pleadings challenging the conviction, the district judge assessed a sanction of \$1000 and barred the complainant from filing additional civil actions until the sanction was paid.

In 2014, the complainant filed two new civil actions—one that was assigned to the subject district judge, and one that was assigned to a different judge of the same

court. Because the complainant had not paid the \$1000 sanction that was imposed in the 2005 case, these actions were dismissed without prejudice.

To the extent that it is based on the district judge's imposition of the \$1000 sanction and the district judge's dismissal of one of the complainant's 2014 civil actions, this complaint is subject to dismissal under Rule 11(c)(1)(B) as directly related to the merits of the judge's rulings. See *also* 28 U.S.C. § 352(b)(1)(A)(ii). The complainant's challenges to these rulings—that they violated the Ex Post Facto Clause and denied him access to the courts—are outside the scope of judicial-misconduct proceedings. See Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The Judicial Council does not have jurisdiction to review the judge's rulings. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988).

To the extent that it alleges improper sharing of information with other judges, the complaint is subject to dismissal under Rule 11(c)(1)(D). See *also* 28 U.S.C. § 352(b)(1)(A)(iii). The complainant asserts that the district judge telephoned a district court in another state and “provided information about [him] that prejudiced [his] chances for a fair and impartial hearing” in an action there. But the complainant does not claim to have heard the alleged telephone call or to have learned about the call from someone who heard it. Nor has the complainant identified the “information” that the district judge allegedly provided. The complaint thus lacks sufficient evidence to raise an inference that misconduct has occurred. Likewise, the complaint's allegation that the district judge “advised” another judge of the sanction and pre-filing restrictions imposed in the 2005 case, thereby causing the dismissal of one of the complainant's 2014 civil actions, does not support an inference that misconduct has occurred.

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

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

Date: November 26, 2014