

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

In re:
Complaint of Judicial Misconduct

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*No. 06-14-90092
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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 the complainant's civil action. The complaint alleges that the district judge delayed ruling on the complainant's motions, then "fundamentally impeded the [complainant's] rights" by denying a motion for reinstatement of the complainant's voluntarily dismissed action.

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 the complainant and two additional parties filed a civil action in January 2014. The plaintiffs' attorney filed a notice of voluntary dismissal shortly thereafter, whereupon the complainant moved pro se for reinstatement of the case. The complainant later filed motions for expedited consideration of the motion for reinstatement and for a ruling on the motion for reinstatement. The district judge denied all of these motions on July 7, 2014.

To the extent that it is based on the district judge's denial of the complainant's motions, this complaint is subject to dismissal under Rule 11(c)(1)(B). See *a/so* 28 U.S.C. § 352(b)(1)(A)(ii). The complainant's challenge to the merits of the judge's decision is outside the scope of judicial-misconduct proceedings. 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 ruling by a judge. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331, 331-32 (6th Cir. 1988).

To the extent that it alleges delay in ruling on the complainant's motions, the complaint is subject to dismissal under Rule 11(c)(1)(D). See also 28 U.S.C. § 352(b)(1)(A)(iii). An allegation of delay, unaccompanied by allegations of improper motive or habitual delay in a significant number of unrelated cases, does not allege cognizable misconduct. See Rule 3(h)(3)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Moreover, the record reveals no more than routine delay in the complainant's civil action.

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: December 15, 2014