

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

In re:
Complaint of Judicial Misconduct

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*No. 06-14-90126
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M E M O R A N D U M

This complaint of judicial misconduct was filed by a pro se prisoner against the district judge who dismissed his civil action filed under 42 U.S.C. § 1983. The complaint alleges that the district judge “denied Complainant access to the district courts by fabricating law” in order to dismiss his action.

After conducting an initial review, the chief judge may dismiss a misconduct 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”; (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 district judge dismissed the complainant’s § 1983 action because it failed to state a claim upon which relief could be granted and because the defendants are immune from suit. The complaint’s allegation that the district judge “fabricat[ed] law” reflects the complainant’s disagreement with the judge as to the import of governing case law. Indeed, the sum and substance of the complaint is an attack on the merits of the district judge’s ruling. The complaint is thus subject to dismissal under Rule 11(c)(1)(B). See *also* 28 U.S.C. § 352(b)(1)(A)(ii). A challenge to the merits of a district judge’s rulings is outside the scope of judicial-misconduct and judicial-disability 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 the complaint alleges partiality, improper ex parte communications, and dishonesty on the part of the district judge, it is subject to

dismissal under Rule 11(c)(1)(C). See *also* 28 U.S.C. § 352(b)(1)(A)(iii). The complaint sets forth no specific facts, and the record contains no evidence, to support such allegations.

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

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

Date: January 21, 2015