

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

In re:
Complaint of Judicial Misconduct

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*No. 06-14-90139
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M E M O R A N D U M

This complaint of judicial misconduct was filed against a district judge based on extra-judicial conduct. The complaint charges that the subject judge violated state law by serving simultaneously as trustee and adjunct professor at a state university. The complaint also charges that the subject judge “recklessly endorsed” an investigative report conducted by the university which concluded that the university’s marching band and its director had created a culture of sexual harassment.

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 limited inquiry permitted by Rule 11(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings shows that the subject judge did, for a period of time, serve as both trustee to the university and as an adjunct professor, in violation of state law. Whether or not the breach of state law constituted cognizable judicial misconduct, easily available public records show that the subject judge has, pursuant to an agreement with the state ethics commission, resigned his position as trustee. Because the subject judge “has taken appropriate voluntary corrective action that acknowledges and remedies the problems,” see Rule 11(d)(2), Rules for Judicial-Conduct and Judicial-Disability Proceedings, this part of the complaint may be concluded under 28 U.S.C. § 352(a)(1) and Rule 11(d)(2).

There is no factual foundation in the complaint or its attachments for complainant’s allegation that the subject judge failed in his duties as a judge by “recklessly endorsing” a university investigative report. Even assuming that the allegation is true, however, such conduct would be neither prejudicial to the administration of the business of the courts nor would be indicative of a disability affecting the discharge of judicial duties. This part of the

complaint is therefore appropriately dismissed under 28 U.S.C. § 352(b)(2) and Rule 11(c)(1)(A) of the Rules for Rules for Judicial-Conduct and Judicial-Disability Proceedings.

For these reasons, the complaint will be dismissed pursuant to 28 U.S.C. § 352(a)(1) & (b)(2) and Rule 11(c)(1)(A) & (d)(2) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: March 12, 2015