

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

In re:
Complaint of Judicial Misconduct

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*No. 06-15-90002
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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 presided over her criminal trial and sentencing. The complaint alleges that the district judge refused to enforce the complainant's statutory rights as a victim of the conspiracy for which she was charged and convicted. The complaint further alleges that the district judge "favors the prosecution." The complainant requests "retroactive disqualification" of the district judge and reassignment of her case to a different judge.

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 entered a second amended judgment in the complainant's criminal case in October 2011. The court of appeals affirmed that judgment in August 2012, and the Supreme Court denied certiorari in February 2013. In November 2013, the complainant moved to vacate her sentence under 28 U.S.C. § 2255. That motion remains pending. The complainant has also filed a petition for a writ of mandamus in the court of appeals and an action for damages and other relief in the Court of Federal Claims, both of which also remain pending. In each of the pending proceedings, the complainant raises the victims'-rights and bias issues that she also advances here.

To the extent that this complaint challenges the district judge's application or non-application of statutory law relating to victims' rights, it is 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 the

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 or to grant the relief sought by the complainant here. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331, 331-32 (6th Cir. 1988).

To the extent that it alleges bias on the part of the district judge, the complaint 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: April 1, 2015