

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

In re:  
Complaints of Judicial Misconduct

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\*Nos. 06-15-90012/13  
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**M E M O R A N D U M**

These complaints of judicial misconduct were filed by a pro se litigant against the circuit judges who, as chief judge and acting chief judge of the circuit, dismissed the complainant's prior complaints of judicial misconduct. The complainant asserts that the then-chief judge improperly delayed resolution of her first complaint of judicial misconduct and then improperly dismissed it. The complainant further asserts that the then-chief judge arranged an improper reassignment of her second complaint of judicial misconduct to the then-acting chief judge, who dismissed it without authority to do so. According to the complainant, the then-chief judge received "gifts" from the district judge who was the subject of the first complaint, gave "gifts" to the circuit executive to facilitate dismissal of that complaint, and gave "gifts" to the then-acting chief judge to secure his involvement with the second complaint.

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 reveals that the complainant filed a complaint of judicial misconduct against a district judge in November 2009. The then-chief judge dismissed this first complaint in December 2011. Meanwhile, in November 2011, the complainant filed a complaint of judicial misconduct against the then-chief judge based on the delay in resolving her first complaint. This second complaint was assigned to the acting chief judge at the time. That judge retired, however, and the complaint was reassigned to the then-acting chief judge, who dismissed it in November 2013.

The allegation that the then-chief judge delayed resolution of the complainant's first judicial-misconduct complaint was addressed in the complainant's second judicial-misconduct complaint (No. 06-11-90092). To the extent that they raise this same allegation, these complaints are subject to dismissal on the same basis.

To the extent that they challenge the subject judges' rulings on the complainant's prior judicial-misconduct complaints, these complaints must be dismissed under Rule 11(c)(1)(B). See *also* 28 U.S.C. § 352(b)(1)(A)(ii). A complainant who is dissatisfied with the chief judge's disposition of a complaint under Rule 11(c) may petition for review by the judicial council. See 28 U.S.C. § 352(c); Rule 18, Rules for Judicial-Conduct and Judicial-Disability Proceedings. Review is not available by means of a new complaint against the chief judge.

Finally, to the extent that they allege the giving and receipt of "gifts" by the then-chief judge, these complaints are subject to dismissal under Rule 11(c)(1)(C) because the allegations are wholly unsupported. See *also* 28 U.S.C. § 352(b)(1)(A)(iii). Moreover, the re-assignment of the complainant's second judicial-misconduct complaint to the then-acting chief judge, following the retirement of the preceding acting chief judge, was done in accordance with standard court procedures.

For these reasons, the complaints 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