

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

In re:
Complaint of Judicial Misconduct

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*No. 06-15-90015
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M E M O R A N D U M

This complaint of judicial misconduct was filed by a prisoner against the district judge who denied him pauper status under the “three strikes” rule of 28 U.S.C. § 1915(g) and dismissed his 42 U.S.C. § 1983 action. He also names the magistrate judge who was assigned to the case. His handwritten complaint is difficult to decipher: he uses most of his complaint to argue the merits of his § 1983 case and to complain about the prison’s interference with his mail. He complains at one point that his litigation has been going on for twelve years but still has not proceeded to discovery, but the case referenced in his complaint was filed in 2014. The only discernable specific allegation against the subject district judge is that the judge did not respond to his motion for a preliminary injunction. He makes no specific allegations against the subject magistrate judge.

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 gravamen of the complaint is the complainant’s dissatisfaction with the outcome of his underlying § 1983 action. It is therefore subject to dismissal as directly related to the merits of the named judge’s decisions in complainant’s underlying proceedings pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Such rulings are not the proper subject of a complaint of judicial misconduct. 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 the named judge’s rulings or to grant relief requested in the underlying case. See *In re*

Complaint of Judicial Misconduct, 858 F.2d 331 (6th Cir. 1988).

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

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

Date: April 1, 2015