

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

In re:
Complaint of Judicial Misconduct

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*No. 06-15-90040
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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 litigant against the district judge who was assigned to his civil-rights action. The complaint alleges that the district judge did not give the complainant an opportunity to be heard, improperly denied him an extension of time, ignored his evidence, did not allow oral argument, did not give him “leeway” as a pro se litigant, misapplied governing precedent, and violated each of the canons of judicial conduct.

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.

A review of the district-court record reveals that the district judge denied, on the briefs, the complainant’s motion to quash a certification by the United States Attorney’s Office. The district judge granted, on the briefs, one defendant’s motion to dismiss and another defendant’s motion for judgment on the pleadings. Also on the briefs, the district judge denied the complainant’s motions for a preliminary injunction and for an extension of time to cure defective service, granted another defendant’s motion for judgment on the pleadings, and, finally, dismissed the case in its entirety.

This complaint is subject to dismissal under Rule 11(c)(1)(B) as directly related to the merits of the district judge’s rulings. See also 28 U.S.C. § 352(b)(1)(A)(ii). Any challenge to the merits of a judge’s decisions is outside the scope of judicial-misconduct 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 that the district judge violated the canons of judicial conduct, it is subject to dismissal under Rule 11(c)(1)(C) as wholly unsupported by any evidence. See also 28 U.S.C. § 352(b)(1)(A)(iii). The complaint alleges these violations in conclusory fashion only. Indeed, the complainant acknowledges that he “can only speculate” that the district judge acted out of bias and with improper motive. There is no evidence to support these speculations.

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: August 28, 2015