

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

In re:
Complaint of Judicial Misconduct

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*No. 06-15-90111
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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 presided over the complainant's civil action against a creditor. The complainant challenges a number of the subject judge's rulings in that action, arguing that those rules were evidence of the judge's bias against pro se litigants, were made in order to "provide special treatment for alleged friends," and demonstrated that the judge conspired with the "alleged defendant attorney." The complainant also alleges that the judge used "personally derogatory remarks irrelevant to the issues," and treated her and her co-plaintiff in a "demonstrably egregious and hostile manner."

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 this complaint is the complainant's dissatisfaction with the subject judge's rulings in the underlying action. Although she perfunctorily alleges conspiracy, bias, and special treatment by the subject judge, the complainant provides no support for those allegations other than the adverse character of the rulings she specifically challenges. Similarly, the complainant's allegations that the subject judge used derogatory remarks and treated her and her co-plaintiff in an egregious and hostile manner are based solely on the judge's orders. The derogatory remark that she identifies is a passage from an order in which the subject judge referred to one of the complainant's motions as "frivolous."

This complaint is subject to dismissal as directly related to the merits of the named judge's rulings in the underlying action 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 decisions 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 any rulings by a judge, or to grant the relief that may be requested in the underlying case. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). Although she attempts to cloak her allegations in charges of conspiracy, bias, hostile treatment, and derogatory words, the complaint does nothing more than complain about the subject judge's adverse rulings, and is therefore subject to dismissal 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.

Accordingly, 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: August 17, 2016