JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

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In re:	*
Complaint of Judicial Misconduct	*No. 06-16-90001
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by **[REDACTED]** ("complainant") against the Honorable **[REDACTED]** ("subject judge"), pursuant to 28 U.S.C. § 351. The complainant, a frequent pro se litigator in the district court, alleges that the subject judge, who had recused himself from one of complainant's numerous law suits, stated that his successor magistrate judge would be appointed by a "blind draw." Complainant apparently takes issue with the truth of that statement, arguing that the fact that more than fifty percent of his cases have been assigned to the same magistrate judge makes it "impossible" to believe that assignments are blind and random.

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.

Complainant's allegations that the subject judge stated, upon recusal, that a successor magistrate judge would be appointed pursuant to a "blind draw" do not allege conduct that is prejudicial to the effective and expeditious administration of justice. *See* Rule 11(c)(1)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings. And to the extent the complainant is alleging that the assignment system has somehow been manipulated, a limited investigation pursuant to Rule 11(b) shows that the evidence complainant asserts in support of such allegation is false: the district court records show that of the twenty-five cases in which the complainant has been a party since 1992, the magistrate judge in question has been appointed to only three. This part of the complaint

is thus subject to dismissal under Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

For these reasons, it is **ORDERED** that the complaint be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(i) & (iii) and Rules 11(c)(1)(A) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: October 12, 2016