

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

In re:
Complaint of Judicial Misconduct

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*Nos. 06-16-
*90017/18/19/20
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by **[REDACTED]** (“complainant”) against the Honorable **[REDACTED]** (“subject judge 1”), the Honorable **[REDACTED]** (“subject judge 2”), the Honorable **[REDACTED]** (“subject judge 3”), and the Honorable **[REDACTED]** (“subject judge 4”), pursuant to 28 U.S.C. § 351.

The complaint is based on two underlying civil actions in which the complainant challenged his placement on a state sex-offender registry. In his rambling and confusing complaint, the complainant challenges the competency of subject judge 4, the magistrate judge who was assigned to both of his cases, alleging that her unfavorable rulings in those cases demonstrate that she suffers from a mental disability that renders her unfit to discharge the duties of her office. Subject judge 1, who was the district judge to which both cases were assigned, and subject judges 2 and 3 were chief judge of the district when each case was assigned. Subject judges 1 through 3 are charged with “covering up” subject judge 4’s incompetency. The complainant also makes a general allegation of delay in both proceedings, a charge that is, presumably, limited to subject judges 1 and 2, who presided over those cases.

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 subject judges’ rulings in the underlying proceeding. Complainant may not challenge those rulings by ascribing an unsound mind to their maker. Nor may he involve other judges based on

their position of authority in relation to the judge who made the rulings with which he is dissatisfied. The judicial complaint process may not be used to challenge the merits of judges' decisions. 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 the named judges' rulings or to grant relief requested in the underlying case. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). This part of the complaint is therefore subject to dismissal as directly related to the merits, 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.

Allegations of delay, absent improper motive or habitual delay, do not constitute misconduct cognizable in the judicial complaint process pursuant to Rule 3(h)(3)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Complainant has not shown and cannot show unreasonable or persistent delays, nor has he alleged an improper motive. In any event, the docket sheets in those underlying cases show constant activity, including repetitive responses, replies, and motions for extension of time and reconsideration of judicial orders and judgments. The record thus belies any allegations of delay, unreasonable or otherwise. This part of the complaint is therefore subject to dismissal as unsupported by sufficient evidence pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

For these reasons, it is **ORDERED** that the complaint will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii) and Rules 3(h)(3)(B) and 11(c)(1)(B) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: October 12, 2016