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CIRCUIT EXECUTIVE

No. 06-13-90009

JUDICIAL COUNCIL  
OF THE SIXTH CIRCUIT

In re Complaint of Judicial Misconduct

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ORDER AND MEMORANDUM

BEFORE: COLE, Chief Circuit Judge; BOGGS, BATCHELDER, GIBBONS, ROGERS, GRIFFIN, KETHLEDGE, WHITE, STRANCH, and DONALD, Circuit Judges; ROSEN, MCKINLEY, CALDWELL, VARLAN, BREEN, JONKER, and SHARP, Chief District Judges.<sup>1</sup>

Four complainants filed a Complaint of Judicial Misconduct against Judge John R. Adams of the United States District Court for the Northern District of Ohio. The Complaint alleges that Judge Adams committed misconduct by issuing a Show Cause Order to a magistrate judge on February 1, 2013. A Special Investigating Committee (“SIC”) was formed to review the Complaint. During the course of this review, other facts came to light that led to an expansion of the investigation. The investigation was first expanded to determine whether Judge Adams suffers from a mental or emotional disability that renders him unable to discharge the duties of his office. The investigation was later expanded to determine whether Judge Adams

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<sup>1</sup> Julia S. Gibbons and Bernice B. Donald, Circuit Judges, and Karen K. Caldwell, Chief District Judge, were excused from participating in the Council’s September 10, 2015, meeting to consider this matter. They have, however, reviewed the written record and concur in this Order and Memorandum. Edmund A. Sargus, Chief District Judge, recused himself from this matter. Solomon Oliver, Jr., Chief District Judge, participated in deliberations but did not vote on the disposition.

committed misconduct by refusing to cooperate with the SIC's investigation into his mental and emotional health.

The SIC prepared a detailed and thorough Report of its investigation. After reviewing the Report and Judge Adams's response, the Judicial Council of the Sixth Circuit concludes that Judge Adams committed misconduct through both his issuance of the Show Cause Order and his refusal to cooperate with the investigation. The Council is unable to determine whether Judge Adams suffers from a mental or emotional disability.

This Order and Memorandum first describes the initiation of these proceedings and the steps taken by the SIC in its investigation. Next, it summarizes the factual findings and legal conclusions contained in the SIC's Report. Finally, it provides the Council's findings and remedial actions.

### **I. The Investigation**

On Friday, February 1, 2013, Judge Adams issued a Show Cause Order requiring one of the district's magistrate judges to show cause by 4:00 p.m. on February 4, 2013, the following Monday, why he should not be held in contempt or otherwise sanctioned for failing to comply with Judge Adams's scheduling order in a Social Security case. Although Judge Adams ultimately did not hold the magistrate judge in contempt, Judge Adams also refused to vacate the Show Cause Order or strike it from the docket despite a unanimous request from the other judges of the district who were concerned with its effects on the magistrate judge and the administration of justice in the district.

On February 15, 2013, four complainants—all district judges—filed a Complaint of Judicial Misconduct. The Complaint alleges that Judge Adams's issuance of the Show Cause Order, in combination with other ongoing disruptive behavior directed at the judges of the

district, constituted “conduct prejudicial to the effective and expeditious administration of the business of the courts.” 28 U.S.C. § 351; Rule 3(h).<sup>2</sup> Judge Adams responded to the Complaint with two letters to then-Chief Circuit Judge Batchelder in which he denied the allegations, argued that his actions were lawful, and accused the complainants of conducting a “smear campaign.” Judge Batchelder recused herself from acting as chief judge in the matter, and Judge Boggs was designated to act in her stead. *See* Rule 25(f).

On April 8, 2013, after reviewing the Complaint, Judge Boggs activated the Council’s SIC to investigate the matter.<sup>3</sup> 28 U.S.C. § 353(a); Rule 11(f). Judge Boggs notified Judge Adams of the activation of the SIC and provided him with information regarding his rights in the investigation. *See* 28 U.S.C. § 353(a)(3); Rules 11(g)(1), 15(a)(1)(A).

Judge Boggs twice expanded the scope of the investigation in response to requests from the SIC. *See* Rule 13(a). On May 27, 2014, Judge Boggs directed the SIC to investigate potential mental and emotional disabilities from which Judge Adams might be suffering. *See* Rule 3(e). On December 9, 2014, Judge Boggs directed the SIC to investigate whether Judge Adams’s non-cooperation with the SIC’s investigation into his potential disability itself constituted misconduct. *See* Rule 3(h). Judge Adams was notified of each of these expansions. Rule 15(a)(1)(B).

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<sup>2</sup> Throughout this Order and Memorandum, the Rules for Judicial-Conduct and Judicial-Disability Proceedings will be cited simply as “Rule.” The Sixth Circuit has promulgated additional Rules Governing Complaints of Judicial Misconduct or Disability, which will be cited as “Sixth Circuit Rule.”

<sup>3</sup> Members of the SIC are District Judge Curtis L. Collier, Chair; Circuit Judges Danny J. Boggs, Eric L. Clay, and John M. Rogers; and District Judges Paul L. Maloney and Thomas B. Russell. *See* Rule 12; Sixth Circuit Rule 9. The SIC retained the law firm of Robbins, Russell, Englert, Orseck, Untereiner & Sauber LLP to assist in the investigation and resolution of this matter. *See* Rule 13(c).

Accordingly, the SIC investigated three ultimate issues arising from the complaint: misconduct from issuing the Show Cause Order, potential disability, and misconduct from non-cooperation. In carrying out its investigation, the SIC interviewed fourteen witnesses from May 2013 to August 2013. Among those interviewed were the four complainants and Judge Adams. Two of the witnesses were interviewed specifically at Judge Adams's request. *See* Rule 15(a)(2). The SIC also reviewed documents obtained from the complainants, Judge Adams, the various witnesses, and publicly available sources. After the investigation was expanded in May 2014 to consider Judge Adams's mental and emotional health, the SIC retained the services of a forensic psychiatrist for the purpose of providing an opinion as to whether Judge Adams might be suffering from a mental or emotional disability.

Judge Adams twice requested the transfer of this matter to the judicial council of another circuit, first in March 2015, and again in April 2015. Rule 26. Chief Judge Cole denied both requests, finding that this matter presented no "exceptional circumstances" that warranted transferring the proceeding.

Following the initial evidence-gathering period, the SIC held a fact-finding hearing from April 20 to 22, 2015. *See* Rule 14. Judge Adams's counsel worked with the SIC to draft special rules for the hearing. Judge Adams was provided formal notice of the hearing and a copy of the final rules in February 2015. In the weeks before the hearing, the SIC disclosed to Judge Adams all potential exhibits and the prior recorded statements of all witnesses to be called at the hearing, as well as summaries of additional expected testimony for all witnesses expected to testify. Rule 15(a)(1)(C). Judge Adams made similar disclosures. The SIC also granted Judge Adams's request for certain witness subpoenas, although it rejected some others as unnecessary and overly broad. *See* 28 U.S.C. §§ 332(d)(1), 356; Rule 15(c).

Eleven witnesses testified at the hearing. Judge Adams ultimately elected not to call any of his subpoenaed witnesses at the hearing, but two of the witnesses who testified were called by the SIC at Judge Adams's request. All witnesses were subject to examination by the SIC's counsel, Judge Adams's counsel, and members of the SIC. Rules 14, 15(c), 15(f). The SIC also received hundreds of documents into evidence, including interview transcripts and witness statements submitted by Judge Adams. Judge Adams sought to introduce the testimony of a psychiatrist who apparently had recently conducted a mental-health evaluation of him. But because Judge Adams refused to produce any of the records underlying his psychiatrist's evaluation, the SIC excluded Judge Adams's psychiatrist from testifying. The SIC's forensic psychiatrist also did not testify at the hearing; instead, the parties agreed to have the SIC's forensic psychiatrist provide an affidavit stipulating as to the content of his testimony, and for Judge Adams to make written objections to that stipulated testimony. At the conclusion of the hearing, the SIC's counsel and Judge Adams's counsel offered oral argument. Rule 15(d). Both the SIC and Judge Adams submitted post-hearing briefs and recommended actions. *Id.* Judge Adams also submitted proposed findings of fact.

Throughout the investigation, the SIC also negotiated with Judge Adams and his counsel in an attempt to reach a mutually agreeable conciliation plan that would resolve the Complaint without requiring action by the Judicial Council. The discussions began in the fall of 2013 and continued through the winter of 2015. While some progress was made early on, the negotiations were ultimately unsuccessful.

On July 10, 2015, the SIC issued its unanimous Report to the Council. 28 U.S.C. § 353(c); Rule 17. Judge Adams was provided with a copy of the Report. Rule 15(b). The

Report related the factual findings of the SIC's investigation and its conclusions on legal issues raised by the investigation.

Based on this evidence and analysis, the Report made findings on the three ultimate issues raised by the Complaint, as expanded in scope. The Report recommended that the Council take certain "necessary and appropriate action" to resolve this matter. 28 U.S.C. § 353(c); Rule 20(b)(1)(D).

On September 10, 2015, the Council conducted a meeting to consider the Complaint. Prior to the meeting, Judge Adams submitted a written response to the Report to the Council. Rule 20(a). At the meeting, Judge Adams's counsel presented oral argument contesting the findings and recommendations set forth in the Report. *Id.*

## **II. Factual Findings of the Special Investigating Committee**

The SIC's Report contains detailed factual findings drawn from its fact-gathering process. Those factual findings are summarized below and are reorganized for the sake of brevity. First, this Order and Memorandum describes the Report's findings regarding Judge Adams's withdrawal from the court starting in 2008, his mistreatment of other judges on the court, and his attempts to undermine the administration of court business. Second, this Order and Memorandum summarizes the Report's findings regarding the circumstances surrounding the Show Cause Order. Finally, this Order and Memorandum summarizes the SIC's findings with respect to Judge Adams's refusal to cooperate in the SIC's investigation into his mental and emotional health.

To reach these factual findings, the SIC had to resolve issues of credibility when conflicting testimony or evidence appeared in the record. Those credibility determinations are addressed below where relevant to explaining the Report's factual findings.

**A. Withdrawal from the Court, Mistreatment of Colleagues, and Undermining the Administration of Court Business**

Judge Adams was confirmed to the United States District Court for the Northern District of Ohio in 2003. His chambers are located in Akron, Ohio. By all accounts, from 2003 to 2008 he was a collegial and involved member of the court, participating in court governance and socializing with his colleagues.

In 2008, however, Judge Adams's behavior changed sharply. The catalyst for this change seems to have been the selection of a new magistrate judge who would reside in the Akron courthouse. Judge Adams preferred one candidate for the position and believed that the other district judges would defer to his choice because he was the most-senior active judge in Akron. The district judges ultimately preferred another candidate, though, and selected that candidate by majority vote. From then on, Judge Adams ceased interacting collegially with other members of the court and ceased virtually all involvement in court administrative matters.

**1. Refusal to Interact with Other District Judges**

Judge Adams has ceased all social interactions with members of the court aside from one judge with whom he apparently maintains friendly relations. Further amplifying his reclusiveness, Judge Adams has generally forbidden his staff from interacting with others in the courthouse.

Judge Adams has rebuffed his colleagues' efforts to engage him. For example, when one district judge greeted Judge Adams at an event for federal judges in Washington, D.C., in 2010, Judge Adams ignored his colleague and walked away. Although Judge Adams claims he merely did not see the judge, the SIC found this explanation not credible.

Also in 2010, Judge Adams refused to allow another district judge and his staff—who were visiting from out of town—to even enter his chambers to introduce themselves. The

visiting judge had sent Judge Adams an email advising him of the visit and asking if he might stop by so that his staff could meet Judge Adams's staff. Instead of accepting this social nicety, Judge Adams sent a harsh email to the visiting judge, telling him, "Bluntly-----your [sic] not welcome in my chambers. Please do not knock on my door to avoid the embarrassment of being turned away. Lastly please spare me the condescending lecture on collegiality etc."

## **2. Mistreatment of Magistrate Judges**

Judge Adams has repeatedly expressed a general hostility towards and contempt for the court's magistrate judges. The Show Cause Order, which is discussed in detail in Section II.B.2 below, is only the most glaring example of Judge Adams's hostility toward all magistrate judges.

After the appointment of Akron's new magistrate judge in 2008, Judge Adams refused to interact with that judge or assign that judge any work from his docket. Despite numerous attempts by the magistrate judge to initiate contact, Judge Adams refused to meet. Judge Adams also refused to allow the magistrate judge to use Akron's ceremonial courtroom for the judge's investiture ceremony, instead relegating the judge to a smaller courtroom. Judge Adams was the only member of the court who did not attend the magistrate judge's investiture ceremony.

Judge Adams has been generally unwilling to communicate with any of the court's magistrate judges since 2008. Instead, he requires that all communications go through his staff. Several magistrate judges noted that this inability to contact Judge Adams directly, and Judge Adams's hostility to those magistrate judges who do try to contact him, have negatively impacted their ability to work on his cases.

When another magistrate judge was selected to serve in Akron in 2011, Judge Adams flatly refused the magistrate judge's invitation to meet. Instead, he sent the judge a terse email explaining that he typically does not refer work from his cases to magistrate judges. With



respect to Social Security cases—which by local rule are automatically referred to magistrate judges—he stated that, “[g]iven the magistrates extremely limited caseloads,” he “expect[ed] prompt decisions.” Judge Adams concluded with a parting shot at the magistrate judges: “[H]opefully your work ethic will exceed that of your predecessors here in Akron as well as that of the remaining magistrates in the District.” To date, this has been Judge Adams’s only direct communication with this magistrate judge, despite sharing a courthouse.

Judge Adams has described the Northern District of Ohio’s magistrate judges as having “meager” caseloads and has criticized other district judges for allowing Social Security cases to “languish[]” on magistrate judges’ dockets. In correspondence to another district judge, he asked, “[t]o whom do these Magistrates answer for their performance? Do you or any of your colleagues provide any oversight?”

As described in more detail in Section II.B.1 below, Judge Adams’s hostility toward the magistrate judges boiled over in 2012 during a dispute regarding his scheduling order for Social Security cases. In that instance, two magistrate judges wrote Judge Adams letters explaining why their need to balance work on all the cases on their dockets meant that they would require extensions on Judge Adams’s deadline in particular cases. In response, Judge Adams voiced his opinion that magistrate judges, as Article I judges, do not deserve the same autonomy to manage their workloads as Article III judges. Judge Adams later criticized the district’s chief judge for failing to “discipline” these two magistrate judges for what he viewed as the “disrespectful” and “defiant” attitudes expressed in their letters.

### **3. Withdrawal from Court Governance**

Since the 2008 magistrate judge selection, Judge Adams has also refused to participate in any court administration or governance. Judge Adams withdrew from the three court committees

on which he served. Judge Adams has not attended a regular judges' meeting or committee meeting since then.

Only a few times since 2008 has Judge Adams participated in court governance matters. During a 2011 judges' meeting to select a candidate to fill the open magistrate position in Akron, Judge Adams appeared by telephone. But when Judge Adams's turn to speak came he declined the invitation, stated that he did not think his views would make much difference, and then hung up. In 2012, when the court was considering adopting a new rule regarding the processing of Social Security cases (explained in more detail in Section II.B.1 below), Judge Adams communicated his views on the issue via a written letter rather than attend the meeting.<sup>4</sup>

Despite this general withdrawal, in 2009 Judge Adams voiced his objection to the chief judge's selection of another judge to chair the Akron courthouse security committee, even though Judge Adams was more senior. When the chief judge responded to Judge Adams's concerns by asking the rest of the court to notify him of any opposition to the appointment, nobody responded.

Over the years, other judges have suggested to Judge Adams that he should participate in court governance and join one of the court's administrative committees. Judge Adams has refused or ignored these suggestions. During this investigation, Judge Adams denied that any judges had reached out to him, but testimony from other judges, verified by written documents, refutes his claims. Put simply, Judge Adams has rebuffed his colleagues' efforts to engage him at every turn. Judge Adams claims that his withdrawal from court governance is due to the other

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<sup>4</sup> Judge Adams also spoke on the phone with another district judge about this issue when it was first raised in 2011, but refused that judge's invitation to attend a court meeting where he could present his views to the entire court.

judges “routinely ignor[ing]” or “disregard[ing]” his views, but the evidence simply shows normal give-and-take among judges regarding the administration of the court.

At best, Judge Adams has occasionally interacted with a few colleagues regarding matters that personally interest him (particularly with respect to the scheduling of Social Security cases), and has served his turns in the court’s “miscellaneous judge” rotation. Judge Adams has also argued that various other activities—such as teaching at a local law school, speaking at United States Sentencing Commission conferences, and sitting by designation on the Sixth Circuit—show that he has participated in court governance, even though all of these activities are external to the court. Judge Adams conceded in his testimony that it would be difficult for the court to function if every judge were to conduct himself as he has.

#### **4. Undermining the Administration of Court Business**

Instead of actively participating in court governance, Judge Adams has routinely attempted to undermine his colleagues as they administer the court’s business.

These attempts started immediately after the 2008 magistrate judge selection process. Judge Adams preferred another candidate with whom he had practiced law before becoming a judge. After the selection process was completed, Judge Adams’s preferred candidate wrote an inflammatory letter to several judges, senators, and members of the House of Representatives, complaining about the internal workings of the court’s selection process. He sent a copy of this letter to a reporter from the *Cleveland Plain Dealer*. Although Judge Adams denies it, the SIC concluded that Judge Adams was most likely the source of the candidate’s information about the confidential internal workings of the magistrate judge selection process.

In 2010, the district judges met and voted to request authorization to fill a soon-to-be vacant magistrate judge position. Rather than participating in that meeting, Judge Adams wrote

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directly to the Chair of the Judicial Conference's Committee on the Administration of the Magistrate Judges' System, complaining that filling the position was "neither necessary, nor fiscally responsible." When the district's chief judge wrote to defend the court's request, Judge Adams accused the chief judge of making demeaning personal attacks against him, distorting the facts, and generally depriving Judge Adams of "the rights and privileges due to a District Court Judge." Judge Adams further argued that this was "a reflection of how [the chief judge] has conducted himself during his tenure as Chief Judge of this District."

The documents and witnesses, however, do not support Judge Adams's description of the chief judge's actions. In his interview with the SIC, Judge Adams was unable either to identify any falsehoods in the chief judge's letter or to explain coherently why he felt the chief judge had been hostile towards him. The only concrete incident Judge Adams could identify was his not being appointed to the security committee for the Akron courthouse in 2009. Judge Adams suggested in his testimony that his reference to "rights and privileges due to a District Court Judge" was meant to refer generally to the other district judges not agreeing with him on court governance matters. But the evidence in the record merely shows that Judge Adams was on the losing end of several internal discussions among the district judges, not that he was intentionally marginalized.

Judge Adams's practice of appealing to outside authorities to challenge court business decisions continued for years. When the court decided to purchase several iPads for its judges in 2011, Judge Adams wrote the Committee on Audits and Administrative Office Accountability of the Administrative Office of the United States Courts, complaining that this purchase constituted "waste and/or mismanagement of funds." And in 2012, Judge Adams again complained to the

same Committee, this time about reimbursement given to judges who traveled to Toledo to attend the unveiling of a senior district judge's portrait.

Judge Adams's opposition to these routine business decisions has required the court to devote unnecessary additional time and resources to justifying simple matters that could have more easily been handled internally. Judge Adams did not even give notice of the foregoing objections to his colleagues. In his correspondence with the Committee, Judge Adams questioned the motives of his colleagues in seeking approval for these business decisions.

Various members of the court have encouraged Judge Adams to take a more active role in court governance in order to avoid these problems. For example, after the iPad incident, Judge Adams was offered a seat on the court's IT Committee, where he could address his concerns. Judge Adams, however, never responded to the offer, instead preferring to continue taking his concerns to outside authorities rather than to his colleagues on the court.

This behavior renders the administration of business in the Northern District of Ohio less efficient and leaves Judge Adams's colleagues constantly apprehensive that he will challenge their decisions and actions.

#### **B. Show Cause Order**

The triggering incident for the instant investigation was Judge Adams's decision to issue a Show Cause Order to a magistrate judge in February 2013. Although Judge Adams's other behavior is useful to contextualize the Show Cause Order, the focus of the investigation has always been the Show Cause Order and its effects on the administration of business in the Northern District of Ohio.

**1. Judge Adams's Scheduling Order**

In the Northern District of Ohio, cases seeking review of Social Security determinations are assigned to district judges but are then automatically referred to magistrate judges. In 2011, Judge Adams began issuing a standard scheduling order in all Social Security cases that required the magistrate judge assigned to the case to file a Report and Recommendation ("R&R") within 270 days of the filing of the complaint. If the deadline could not be met, Judge Adams required an interim R&R to be filed 30 days before the expiration of this period. Other judges in the district found this deadline to be unreasonable, given that briefing in these cases typically is not completed until 240 days after the filing of the complaint.

Judge Adams argues that the deadline is reasonable. He blames the magistrate judges for not being able to meet his schedule because, in many cases, they grant what he considers to be unwarranted extensions to the parties.

In 2012, two magistrate judges sent Judge Adams timely letters, each about a particular case, explaining that "other matters and responsibilities, including [their] consent docket[s] and referrals from other district judges" would prevent them from completing R&Rs before the 270-day deadline, and accordingly requested extensions. Judge Adams responded by criticizing the magistrate judges for failing to provide "specific reasons" why they could not meet the 270-day deadline. He added: "If you continue to assert that other cases have become ripe for decision at an earlier date, please provide the specifics of those cases, including case numbers and the dates those matters became ripe for decision." He directed them to respond within seven days.

The magistrate judges responded, noting that "the timeliness of social security cases is dependent on the management of an entire docket." They explained that magistrate judges must

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“balance workloads in a manner that is fair to all of the litigants and district court judges who refer cases.”

Judge Adams wrote back, arguing that their explanations contained “several misstatements and omissions.” He wrote, “First, you begin by indicating that you are an ‘independent judicial officer.’ You are not. Magistrate Judges are subordinate judicial officers.”

He continued:

You take great pains to note that you work for the Court as a whole and not simply one Article III Judge. In so doing, you effectively establish a system in which you answer to no one. Your assertion that you cannot satisfy my deadline because of responsibilities to other Article III Judges is a response that you can provide to any inquiry from any Article III Judge. Instead, in matters on my docket, you are answerable solely to me, not the Court as a whole. The same would [be] true for any of my Article III colleagues.

Judge Adams’s letter further disputed the magistrate judges’ claim that they had an obligation to manage their workloads in a manner that was fair to all litigants and district judges. “Again,” he wrote, “you misplace your role by effectively elevating yourself to equal footing with Article III Judges.” The magistrate judges, he wrote, had identified no authority “for simply deciding the rest of [their] docket [was] sufficient reason to ignore [his] order.” He stated that their caseloads were “far from overwhelming” and that Social Security cases “rarely raise novel legal theories.” He concluded that it is not the decision of the magistrate judges as to what cases should take priority on their dockets; rather, they are bound to obey his scheduling orders.

Later in 2012, the court adopted Local Rule 16.3.1 to respond to Judge Adams’s scheduling order. Local Rule 16.3.1, which became effective January 1, 2013, directs that a magistrate judge “should issue a[n R&R] within [285] days of the filing of the answer and transcript” in a Social Security case. In response, Judge Adams modified his scheduling order to

reflect this new deadline, but made the deadline for the R&R mandatory even though the text of the rule is permissive.

## **2. The Show Cause Order**

On May 3, 2012, a Social Security case was assigned to Judge Adams and automatically referred to a magistrate judge for a R&R. Judge Adams issued his standard scheduling order. As this case arose prior to the adoption of Local Rule 16.3.1, the scheduling order required the magistrate judge to file his R&R within 270 days of the filing of the complaint. This would have made the R&R due on January 28, 2013. The magistrate judge's chambers, however, incorrectly calculated the due date to be February 24, 2013. Thus, the R&R was not issued on January 28, 2013. Until this incident, this magistrate judge had never before missed one of Judge Adams's deadlines.

On Friday, February 1, 2013, Judge Adams learned that the magistrate judge had filed neither the R&R nor an interim R&R explaining the delay. Consistent with his pattern of refusing to communicate with magistrate judges, Judge Adams took no steps, either personally or through his staff, to ask the magistrate judge why the R&R was late. Instead, that same day, Judge Adams issued an order to the magistrate judge to show cause by 4:00 p.m. on Monday, February 4, 2013, why he should not be held in contempt for missing the deadline. Judge Adams did not attempt to give any notice of the Show Cause Order to the magistrate judge other than by filing it on the docket.

The magistrate judge learned about the Show Cause Order on Saturday, February 2, 2013. The magistrate judge immediately began working to complete the R&R, a task that would typically take several days. The magistrate judge emailed Judge Adams that evening to take responsibility for the clerical mistake that had occurred in his chambers.



On Monday, February 4, 2013, Judge Adams's law clerk called the magistrate judge to tell him that Judge Adams accepted his explanation for missing the deadline. Later that day, Judge Adams issued another order noting the clerical error, and for this reason found the Show Cause Order to be "satisfied."

On February 5, 2013, the district's chief judge sent Judge Adams a letter on behalf of the other district judges requesting that Judge Adams declare the Show Cause Order null and void and that he strike both orders from the docket.

Judge Adams refused the request to strike the orders from the docket. In a response letter, Judge Adams complained that the magistrate judges had treated his scheduling orders with "disdain and noncompliance." He criticized the chief judge for failing to "discipline" the two magistrate judges who, in 2012, had "disrespectful[ly]" and "defiant[ly]" suggested that their need to manage other cases on their dockets was a valid reason not to comply with the scheduling orders in Judge Adams's Social Security cases. Apparently not recognizing the harm the Show Cause Order could cause, Judge Adams stated that he was "somewhat unclear on what damage was done to [the magistrate judge's] reputation," since "[a] simple review of the docket by anyone would reveal that he had not complied with my scheduling order." Judge Adams argued that keeping the Show Cause Order public was necessary to prevent a "misimpression" that Judge Adams had failed to enforce his own scheduling order. Judge Adams concluded by criticizing how long some of the magistrate judge's Social Security cases had been pending. He continued: "As such, perhaps my show cause [order] was precisely the message that needed to be sent. Further, given the history of defiance of the Magistrate Judges, I can think of nothing other than the threat of contempt that would be sufficient to compel compliance with my scheduling order."

Regardless of whether Judge Adams had the legal authority to issue the Show Cause Order,<sup>5</sup> the Show Cause Order has caused substantial internal strife within the court. It has harmed the morale of the magistrate judges, and diminished the trust between magistrate judges and district judges. As a result of this incident, magistrate judges in the Northern District of Ohio have had to prioritize Judge Adams's Social Security cases above all other cases on their dockets for fear of provoking Judge Adams's ire. This has harmed other district judges' ability to supervise and generally work with the magistrate judges, and has hindered the overall administration of the court.

The SIC also found that it cannot take seriously Judge Adams's assurances, given during his interview with the SIC, that he will not issue similar show cause orders in the future. Judge Adams claimed in August 2012 correspondence to another judge that concerns about the prospect of contempt proceedings for failing to meet his Social Security deadlines were "unfounded," but he nonetheless issued the Show Cause Order only five months later. In his defense to this Complaint, Judge Adams has largely relied on the argument that he had "ample authority" to issue the Show Cause Order and that the Show Cause Order was necessary to make the magistrate judges comply with his scheduling orders. Judge Adams continues to issue scheduling orders in Social Security cases that include mandatory deadlines, despite the permissive language of Local Rule 16.3.1.

Judge Adams does not appear to appreciate the harm the Show Cause Order caused. Judge Adams acknowledged that he owes an apology to the magistrate judge for this incident,

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<sup>5</sup> The Council takes no position on the legality of the Show Cause Order. The SIC's Report goes to great lengths to explain that the problems generated by the Show Cause Order do not depend on its merits. Rather, the fact that the Show Cause Order was issued at all shows extremely poor judgment on Judge Adams's part. This conclusion is discussed in more detail below in Section III.A.

but he had not yet actually apologized at the time of the Council's September 10, 2015, meeting. Although Judge Adams now recognizes issuing the Show Cause Order was unwarranted, he continues to assert that issuing a show cause order to a magistrate judge is a proper means by which to affirm his authority and maintain control over his docket. Even though the Show Cause Order has demonstrably harmed working relationships among judges in the district, Judge Adams argued in his post-hearing brief that the Show Cause Order was "intended to promote the effective and expeditious administration of the business of the courts, not prejudice it." Judge Adams has further argued that there is no evidence that the Show Cause Order interfered with the court's business, and that the Show Cause Order has actually made the court more efficient by speeding up the completion of his Social Security cases.

While the Show Cause Order is the most concrete example of Judge Adams's mistreatment of the district's magistrate judges, it is far from an isolated incident. As discussed above in Section II.A.2, Judge Adams has persistently treated magistrate judges with disdain and disrespect. The Show Cause Order seems to have been motivated at least in part by Judge Adams's general animus toward the magistrate judges of the district, and his desire to punish them for what he viewed as their "defiant" attitudes towards him.

### **C. Non-Cooperation with the Investigation**

The evidence gathered by the SIC during its investigation into the Show Cause Order led the SIC to be concerned that "a reasonable person [would have] cause to question whether Judge Adams has a [mental or emotional] disability." Specifically, the evidence suggested that Judge Adams may have a disability that "(1) prevents him from maintaining a professional relationship with his colleagues, (2) prevents him from shouldering his responsibilities as a member of the District Court, and (3) causes him to make unfounded and destructive attacks against his

colleagues.” The SIC concluded that this evidence gave it a “reasonable basis” to expand its investigation to include these issues.

The Report also highlights two “troubling” incidents that, while not directly related to Judge Adams’s duties as a federal judge, “deepen[ed] the [SIC]’s concern about how Judge Adams’s mental and emotional state might affect the administration of judicial business.” In the first incident, the SIC found by clear and convincing evidence that Judge Adams had “bumped” a magistrate judge hard on a running path near the Akron courthouse and then sprinted away without apologizing or seeing if the judge needed assistance. Judge Adams denies he was the person who bumped the magistrate judge, but the SIC found his denial not to be credible. In the second incident, Judge Adams reacted to an intern accidentally parking in his space by blocking the intern’s car with his own and ordering court security personnel to ticket or tow the intern’s car, even though security officers believed such punitive measures were not warranted for an innocent and easily corrected mistake.

On May 27, 2014, in response to a request from the SIC, Judge Boggs directed the SIC to investigate whether Judge Adams might have an emotional or mental issue that amounts to a disability. The SIC notified Judge Adams before seeking permission for this expansion, and then gave a copy of Judge Boggs’s decision to Judge Adams. *See* Rule 15(a)(1).

In order to conduct its investigation into these issues, the SIC retained the services of a forensic psychiatrist. The SIC requested that the forensic psychiatrist “perform the necessary evaluations of Judge Adams that would allow [him] to reach an opinion as to [Judge Adams’s] emotional and mental state,” and to “provide a report of [his] findings to the [SIC].” To aid this evaluation, in August 2014 the SIC asked Judge Adams to provide any records available to him pertaining to any mental or emotional health treatment or testing he had previously undergone.

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The SIC also asked Judge Adams to submit to psychological testing by another doctor, the results of which would be used by the forensic psychiatrist in his mental-health evaluation.

Judge Adams refused to provide the requested documents or undergo the requested psychological testing. In a September 24, 2014, letter, Judge Adams's counsel argued that the SIC had not adequately specified the reasons it believed Judge Adams might have a disability, and thus complained that the notice to Judge Adams was inadequate. Judge Adams's counsel also accused the SIC of improperly "tak[ing] on a prosecutorial role." The letter concluded by asserting "that a compelled mental health examination is a very intrusive investigative technique and should only be utilized with the support of a full and complete record."

The SIC responded by outlining the steps it had taken to notify Judge Adams of this issue, and explained that it viewed his refusal to cooperate as itself potential misconduct. Nevertheless, Judge Adams still refused the SIC's requests.

In light of Judge Adams's refusal to submit to a mental-health examination, the SIC's forensic psychiatrist could not render an expert opinion or diagnosis regarding Judge Adams's mental or emotional state. But based on the materials the SIC provided to him, the forensic psychiatrist concluded that there is "a reasonable basis for concern as to Judge Adams'[s] mental or emotional state. The data available so far do not suggest a mental state of psychotic proportions, but do suggest significant personality traits that may have contributed to the current concerns." Judge Adams has objected to this conclusion.

On December 9, 2014, in response to another request from the SIC, Judge Boggs directed the SIC to investigate whether Judge Adams's refusal to participate in the mental-health evaluation itself constituted misconduct. After receiving notice of this expansion of the

investigation, Judge Adams continued to refuse to undergo testing by a SIC-retained expert, and refused to provide the SIC with records it requested.

At the SIC's April 20–22, 2015, hearing, however, Judge Adams sought to introduce testimony from his own psychiatrist who had purportedly conducted an evaluation of Judge Adams's mental health. The SIC excluded the psychiatrist's testimony from the hearing, as Judge Adams refused to disclose any of the underlying reports, testing materials, or other documents relating to the evaluation.

### **III. Legal Conclusions of the Special Investigating Committee**

In addition to its factual findings, the SIC's Report also makes three conclusions on legal issues. First, that the merits-related exception to the misconduct definition does not apply in this case. Second, that the SIC's request for Judge Adams to undergo a mental-health evaluation did not violate Judge Adams's Fourth Amendment rights. Third, that Judge Adams received adequate notice during these proceedings to satisfy due process.

#### **A. The Merits-Related Exception**

Judge Adams argues that the Complaint in this case attacks the merits of the Show Cause Order. Cognizable judicial misconduct includes “conduct prejudicial to the effective and expeditious administration of the business of the courts.” 28 U.S.C. § 351; Rule 3(h). However, cognizable misconduct does not include “an allegation that is directly related to the merits of a decision or procedural ruling.” Rule 3(h)(3)(A); *see also* 28 U.S.C. § 352(b)(1). A review of the relevant rules, statutes, and precedent authorities—including the “Breyer Committee Report,” 239 F.R.D. 116 (2006), and publicly available decisions from other disciplinary proceedings—convinced the SIC that the Complaint in this case is not subject to the merits-related exception.

First, before referring this matter to the SIC, Judge Boggs reviewed the Complaint. That he did not dismiss it reflects his decision that it did not fall within the merits-related exception. *See* Rule 11(c)(1)(B). Second, the SIC concluded that the magistrate judge’s potential to appeal the Show Cause Order was neither an effective nor realistic avenue for relief, and did not excuse Judge Adams’s misconduct in this case. *See* Commentary to Rule 3(h). Third, the harms flowing from the Show Cause Order were prejudicial to the effective and expeditious administration of the business of the court.

Finally, the SIC concluded that the allegations of the Complaint do not “directly” relate to the merits of the Show Cause Order, or attempt to collaterally attack its substance or correctness. Instead, “the Complaint focuses on Judge Adams’s hostile treatment of his fellow judicial officers and the severe damage brought about by that treatment rather than the legal correctness of his [S]how [C]ause [O]rder. Whether the [S]how [C]ause [O]rder was legally correct or not does not affect the analysis at all.” The prejudicial impact of the Show Cause Order on the administration of the business of the court and Judge Adams’s inability or refusal to recognize that harm are the issues here, not his legal authority to issue the Show Cause Order.

“Any allegation that calls into question the correctness of an official action of a judge—*without more*—is merits-related.” Commentary to Rule 3 (emphasis added). The SIC concluded that, “[h]ere, there is ‘more.’” As such, the SIC concluded that the merits-related exception does not apply in this case.

**B. Fourth Amendment Challenge to Mental-Health Examination**

Judge Adams argues that he was justified in refusing to submit to the SIC’s requested mental-health evaluation because such an examination would violate his rights under the Fourth

Amendment. The SIC's Report concludes that even if a compelled mental-health evaluation is a search for Fourth Amendment purposes, the SIC's request was reasonable.

There is an exception to the normal warrant and probable cause requirements where "a Fourth Amendment intrusion serves special governmental needs, beyond the normal need for law enforcement." *Nat'l Treasury Emps. Union v. Von Raab*, 489 U.S. 656, 665 (1989). One such special governmental need is for psychiatric or medical testing of government employees. In such cases, the individual's privacy interests are balanced against the nature of the intrusion and the Government's interests. *Int'l Union v. Winters*, 385 F.3d 1003, 1009–13 (6th Cir. 2004).

Here, the SIC found this balance clearly tipped in favor of requiring Judge Adams to undergo a mental-health evaluation. Judge Adams undoubtedly has a valid privacy interest in his mental health. A mental-health evaluation would intrude on this interest to a nontrivial degree.<sup>6</sup> However, the SIC concluded that "the judiciary unquestionably ha[s] an interest in ensuring that judges are of sound mental health" in order to ensure that federal judges are able to carry out their constitutional functions.

Balancing these interests, the SIC concluded that the request that Judge Adams undergo a mental-health evaluation was reasonable. Its initial investigation raised certain "red flags." Because the SIC did not have the expertise to evaluate Judge Adams's mental condition, the SIC concluded it needed an independent expert to help it perform its investigation. *See* Rule 13(a). The SIC's request was specifically tailored to address issues that arose during the investigation, and the results were to be kept confidential. Under these circumstances, the SIC concluded that

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<sup>6</sup> Notably, Judge Adams was willing to undergo psychological testing, just not by a doctor retained by the SIC. Judge Adams retained his own doctors to evaluate his health and attempted to introduce the conclusion of one psychiatrist—though not the underlying results of the tests—at the SIC's fact-finding hearing. This undercut any argument Judge Adams made about the unwarranted intrusion on his privacy from undergoing such an evaluation.



its request “was reasonable and comported with the Fourth Amendment. Judge Adams’s refusal to submit to the evaluation was not justified on that basis.”

**C. Due Process Challenge to the Investigation**

Judge Adams argues that he did not receive proper notice of the Complaint because it was ambiguous with respect to the “charges against him.” Judge Adams also argues that he did not receive adequate notice of the expansion of the investigation because certain internal communications between the SIC and Judge Boggs regarding the request for expansion were not provided to Judge Adams at the time of the communication.

Rule 15 entitles Judge Adams to notice of three things: (1) “the appointment of a special committee under Rule 11(f);” (2) “the expansion of the scope of an investigation under Rule 13(a);” and (3) “any hearing under Rule 14, including its purposes, the names of any witnesses the committee intends to call, and the text of any statements that have been taken from those witnesses.” The SIC concluded that Judge Adams received all the notice he was due under Rule 15. The Circuit Executive sent Judge Adams a copy of the Complaint and all its attachments; that Judge Adams sent two letters to Judge Batchelder in response demonstrates that he understood the nature of the allegations. Judge Boggs sent a letter to Judge Adams on April 8, 2013, notifying him that the SIC was being activated. Judge Boggs also sent Judge Adams copies of his two decisions expanding the scope of the investigation—first on May 27, 2014, and again on December 9, 2014. Finally, Judge Adams was given notice of the SIC’s April 2015 hearing, copies of all witness statements, exhibits the SIC sought to introduce, and summaries of the testimony that the SIC intended to elicit, all according to a schedule agreed upon by Judge Adams’s counsel.

Judge Adams also argues that the notice he received was constitutionally insufficient because the allegations in the Complaint were unduly vague. Due process requires the government to give “notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

The SIC explained in numerous communications with Judge Adams and his counsel that the initial focus of the investigation was the Show Cause Order, even if the SIC also sought other information to help it reach its ultimate determination. As the SIC succinctly explained at the beginning of its August 23, 2013, interview with Judge Adams, “[t]he focus of [the] investigation is the show cause order you issued . . . on February 1st, 2013[,] and the events that lead [sic] up to that order. . . . There’s a lot of other material in the complaint that might constitute allegations of your pattern of conduct, background information to the show cause order, or extraneous material, but the immediate reason for the complaint was the show cause order.” The SIC investigated the context and history in which the Show Cause Order was issued and its effect on the court, but concluded in its Report that its focus was made clear to Judge Adams throughout the investigation.

Judge Adams also argues that he did not receive notice of internal communications between the SIC and Judge Boggs and thus was confused as to the nature of the mental or emotional issue that concerned the SIC. But before bringing its concerns to Judge Boggs, the SIC had numerous discussions with Judge Adams and his counsel about these issues. The SIC concluded that the Rules do not entitle Judge Adams to receive internal communications between the SIC and Judge Boggs.

#### IV. Disposition

At the September 10, 2015, Sixth Circuit Judicial Council meeting, the members unanimously determined the Special Investigating Committee's Report and the underlying record provided an adequate basis for deciding the merits of the Complaint. *See* Rule 20(c), (d).

After due consideration of these materials, the Sixth Circuit Judicial Council **FINDS** the following:

1. Judge Adams's February 1, 2013, issuance of the Show Cause Order under the circumstances presented here was "conduct prejudicial to the effective and expeditious administration of the business of the courts," because it had prejudicial effects on the District Court as a whole; had prejudicial effects on the ways in which the magistrate judges of the Northern District of Ohio performed their work generally; and had prejudicial effects on the magistrate judge it targeted. *See* Rule 3(h)(1).
2. The Judicial Council cannot determine whether Judge Adams has a "temporary or permanent condition" that renders him "unable to discharge the duties" of his office, because Judge Adams refused to undergo an evaluation by the forensic psychiatrist the Special Investigating Committee retained. *See* Rule 3(e).
3. Judge Adams committed misconduct by refusing to cooperate with the Special Investigating Committee's request that he undergo a mental-health evaluation with a psychiatrist selected by the Special Investigating Committee, as it prejudiced the effective and expeditious investigation of this matter, which is an integral part of the business of the courts. *See* Rule 3(h)(1).

Given these findings, and having considered the Special Investigating Committee's recommendations, the Sixth Circuit Judicial Council **ORDERS** the following:

1. The Judicial Council of the Sixth Circuit hereby PUBLICLY REPRIMANDS Judge Adams for his February 1, 2013, issuance of the Show Cause Order to a magistrate judge. 28 U.S.C. § 354(a)(2)(A)(iii); Rule 20(b)(1)(D)(i). This conduct was prejudicial to the effective and expeditious administration of the business of the United States District Court for the Northern District of Ohio. This behavior was outside the scope of normal, acceptable behavior expected within the judiciary.

Specifically:

- a. The Show Cause Order was personally demeaning to the magistrate judge it targeted and was an unwarranted use of the court's contempt power. The Show Cause Order has caused the court's magistrate judges to prioritize Judge Adams's cases over other matters on their dockets. As a result, magistrate judges decline to grant reasonable briefing extensions rather than exercise their own judgment as to the management of their dockets, based on a fear that Judge Adams will threaten them with contempt.
- b. The Show Cause Order was demeaning and embarrassing to the court's magistrate judges and affected their morale. Its broader effect was to interfere with the effective and efficient administration of the business of the court by harming the relationships between district judges and magistrate judges, eroding the trust that is important to the functioning of any court.
- c. Moreover, Judge Adams's decision to place the Show Cause Order on the docket was prejudicial to the conduct of the court's business, given the Show

Cause Order's tendency to lend discredit to the magistrate judge it targeted and to the court as a whole. It was also prejudicial to the ability of the district judges to have their matters fairly prioritized by the magistrate judges, and to the ability of the district judges to oversee the work of the magistrate judges.

- d. The Judicial Council directs that no such order be issued by Judge Adams with respect to the work of any of the court's judges.
2. Sufficient evidence exists to merit further investigation into whether Judge Adams suffers from a mental or emotional disability that renders him unable to discharge the duties of his office. Accordingly, no new cases shall be assigned to Judge Adams for a period of two years, and his present docket shall be transferred to other judges. 28 U.S.C. § 354(a)(2)(A)(i); Rule 20(b)(1)(D)(ii). This action is necessary to protect the public and the judiciary from the possibility of Judge Adams engaging in inappropriate or embarrassing behavior while the investigation continues.
3. The Special Investigating Committee shall maintain jurisdiction for two years to ensure that Judge Adams does not engage in additional inappropriate behavior involving magistrate judges, whether in his official functions or otherwise. 28 U.S.C. § 353(c); Rules 1, 13(a).
4. Judge Adams shall undergo a mental-health evaluation by a psychiatrist selected by the Special Investigating Committee. The psychiatrist shall be provided with any material from the Special Investigating Committee and Judge Adams that the psychiatrist deems appropriate within six months of the date of this Order. Any report(s) prepared by the psychiatrist shall be made available for the Judicial

Council's confidential review. 28 U.S.C. § 353(c); Rules 1, 13(a), 20(c); Sixth Circuit Rule 14(b).

5. Judge Adams shall submit to any treatment or counseling deemed necessary by the psychiatrist.
6. Should Judge Adams submit to a mental-health evaluation and it demonstrates that he does not suffer from a disability that renders him unable to discharge the duties of his office, or if he receives treatment after the evaluation that remedies any disability, the Judicial Council may suspend the Order that no new cases be assigned to him for two years. Judge Adams would nevertheless remain subject to the Special Investigating Committee's continued jurisdiction for the remainder of the two years, as set forth in Order No. 3. The Judicial Council shall retain jurisdiction to order further remedies depending on the results of the evaluation.
7. Should Judge Adams refuse to undergo a mental-health evaluation by a psychiatrist chosen by the Special Investigating Committee, the Judicial Council intends to request that Judge Adams voluntarily retire, waiving the ordinary length-of-service requirements. 28 U.S.C. § 354(a)(2)(B)(ii); Rule 20(b)(1)(D)(v).

*Judge Adams has a right to petition the Committee on Judicial Conduct and Disability of the Judicial Conference of the United States for a review of this Order and Memorandum. Rules 20(f), 21(b). This Order and Memorandum shall be made public 64 days after its filing, provided that no petition for review is filed before then. Rules 22(c), 24.*

Dated: February 22, 2016