

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

In re:  
Complaint of Judicial Misconduct

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\*No. 06-14-90039  
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**M E M O R A N D U M**

This complaint of judicial misconduct was filed by a prisoner against the district judge who dismissed his habeas corpus petition and denied a subsequently filed motion for relief from that judgment. The complainant contends that the subject judge's order denying his motion to vacate was "a conspiracy of retaliation . . . to cover up the Respondent's false arrest and violations of [the complainant's] constitutional, statutory, and substantial rights." He also makes some confusing references to district court orders that he received late, and pleadings that he filed in his two appeals to this court, and argues that those matters "justifie[d] the conspiracy of retaliation and an injustice by [the subject judge] and the Respondent." He asks for the issuance of "any appropriate order to obtain copies of every or any document written in this Brief to benefit Justice," and demands monetary relief.

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 of a conspiracy are insufficiently supported by credible facts to warrant either a limited inquiry as authorized by 28 U.S.C. § 352(b) or an investigation by a special committee appointed pursuant to 28 U.S.C. § 353. "An allegation may be dismissed as 'inherently incredible' even if it is not literally impossible for the allegation to be true. An allegation is inherently incredible if no reasonable person would believe that the allegation, either on its face or in light of other available evidence, could be true." Implementation of the Judicial Conduct and Disability Act of 1980: A Report to

the Chief Justice, Judicial Conduct and Disability Act Study Committed, Sept. 2006, p. 148. As the only evidence the complainant offers in support of his allegation of conspiracy is the subject judge's adverse ruling on his motion to vacate, his complaint may be dismissed in part as inherently incredible pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The real basis of the complaint is complainant's dissatisfaction with the outcome of the proceedings below. Of course, the judicial complaint process cannot be used to challenge the substance of a judge's rulings. 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 civil actions. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). The complaint must also be dismissed as merits-related 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.

For these reasons, this 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: October 15, 2014