

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

In re:  
Complaints of Judicial Misconduct

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\*Nos. 06-14-90045/46/78  
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**M E M O R A N D U M**

These complaints of judicial misconduct were filed by a pro se litigant against the district judge who presided over and issued a judgment for the defendants in the complainant's employment discrimination action and the panel of judges—two circuit judges and a visiting district judge—who affirmed that judgment on appeal.

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 complainant contends that the decision of the appellate panel ignored or altered material facts and disregarded "clear and controlling law." His only allegation against the subject district judge was that she denied his repeated requests for transcripts.

The visiting district judge who sat on the appellate panel and is named in the complaint is now deceased. With respect to that judge, the complaint will be dismissed pursuant to Rule 11(a)(3) & (e) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings because the judicial complaint process is nugatory as against him. In any event, as discussed below, the allegations against all of the subject judges are subject to dismissal under 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.

The judicial complaint process may not be used as "a means for collateral attack on the substance of a judge's rulings," see Implementation of the Judicial Conduct and

Disability Act of 1980, *A Report to the Chief Justice* ("Breyer Report"), Committee Standards for Implementing the Act (Appendix E), Standard 2, p. 145. 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 actions. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). All of the allegations in these complaints are direct challenges to the merits of the subject judges' rulings in the underlying proceedings. The complaints against the remaining judges are thus appropriately 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.

For these reasons, the complaint will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(a)(3), (e), & (c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: October 15, 2014