

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

In re:
Complaint of Judicial Misconduct

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*No. 06-14-90054
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M E M O R A N D U M

This complaint of judicial misconduct was filed by a pro se prisoner against the district judge who denied his motion for relief from judgment in a civil-rights action filed under 42 U.S.C. § 1983. According to the complainant, the district judge’s ruling shows that the judge “is on the Defendants’ side and has caused an injustice . . . due to his personal animosity” toward the complainant based on the complainant’s prior filing of a judicial-misconduct complaint against the judge.

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.

This complaint is subject to dismissal in part because it is directly related to the merits of the district judge’s disposition of the complainant’s post-judgment motion. See 28 U.S.C. § 352(b)(1)(A)(ii); Rule 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The judicial council is not a court and has no jurisdiction to review any decision of a district judge.

A limited review of the pertinent court records reveals that the remaining portion of the complaint—the allegations of “animosity” and retaliation based on the complainant’s prior judicial-misconduct complaint against the district judge—is devoid of factual support. That portion of the complaint is thus subject to dismissal under Rule 11(c)(1)(C). See also 28 U.S.C. § 352(b)(1)(A)(iii).

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