

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

In re:
Complaint of Judicial Misconduct

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*No. 06-14-90080
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M E M O R A N D U M

This complaint of judicial misconduct was filed against the district judge who presided over the complainant's Title VII litigation. The complainant alleges that "the Court" did not "inform Plaintiffs in a timely fashion" of "Court correspondence." He further alleges that "plaintiffs were at times dismissed then again remained parties . . . in an arbitrary manner." He requests an investigation into "timelines[s], dismissal of plaintiffs and service of process and judgment."

A review of the district-court record reveals that the district judge granted the defendant's motion to dismiss the complainant's action for failure to state a claim. The record does not reflect any difficulties with service of process. It does reflect that a case management order was mailed to the complainant's co-plaintiff only, because the complainant had not provided a separate address, and that the co-plaintiff then provided the complainant's address (which is overseas).

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 "is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred." Rule 11(c)(1)(A)-(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

To the extent that this judicial-misconduct complaint is based on the district judge's dismissal order, judgment, or other rulings, it is subject to dismissal under Rule 11(c)(1)(B). See *also* 28 U.S.C. § 352(b)(1)(A)(ii). The Judicial Council is not a court and has no jurisdiction to review any rulings by a judge. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988).

To the extent that the complaint is based on alleged problems with service of process or notice to the complainant, it is subject to dismissal under Rule 11(c)(1)(D). See *also* 28 U.S.C. § 352(b)(1)(A)(iii). The record contains no evidence of improper service of process, and the complainant has provided none. The record shows that court rulings and “correspondence” were electronically docketed and also mailed to the address provided by the complainant. Even if there were any irregularities in the district court clerk’s procedures, they are not attributable to the district judge.

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) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: November 3, 2014