

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

In re:
Complaint of Judicial Misconduct

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*No. 06-14-90093
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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 litigant against the district judge who dismissed his copyright actions against a state university. The complainant contended that the subject judge was biased, as evidenced by a pattern of rulings for that university in past cases. He also points to, as additional evidence of bias, an article that quoted from an order written by the subject judge in a similar but unrelated case involving the sale of unlicensed merchandise, in which the judge condemned the sale of “knockoffs.” The complainant also takes issue with the subject judge’s rulings in the underlying case.

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.

That part of the complaint that challenges the rulings of the subject judge in the underlying action is subject to dismissal as directly related to the merits of the named judge’s decisions in the underlying proceedings 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. Such decisions are not the proper subject of a complaint of judicial misconduct. 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 the named judge’s rulings or to grant relief requested in the underlying case. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988).

The allegations of bias are unsupported by the record. Even if true, the fact that the subject judge has frequently ruled in favor of the state university in copyright infringement

cases does not show bias toward this complainant, but only that these cases frequently lack merit. The complainant does not charge that the subject judge is biased against him or a certain class of litigants: to the contrary, he forswears any knowledge of the subject judge's motivations for these rulings. Nor does the quote from an unrelated case show bias: even if it was a statement of personal opinion or an inaccurate statement of the law, it does not show that the subject judge was biased toward the complainant. For these reasons, complainant's allegations of bias are due to be dismissed as frivolous. See Rule 11(c)(1)(C), Rules for Judicial-Conduct and Judicial-Disability Proceedings; 28 U.S.C. § 352(b)(1)(A)(iii).

For these reasons, the 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: November 26, 2014