

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

In re:
Complaint of Judicial Misconduct

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*No. 06-14-90099
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M E M O R A N D U M

This complaint was filed by a frequent litigant against the bankruptcy judge who dismissed his most recent attempt to commence Chapter 11 proceedings. The complainant alleges that the subject judge gave him too brief of a time to respond to an order to show cause and would not let him answer questions posed by creditors at a hearing. Complainant also indicates that the subject judge did not believe his testimony at the hearing. The subject judge has informally replied, noting that the allegations are virtually identical to those made in an earlier complaint, which was denied 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.

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 substantially similar, if not virtually identical, to the previous complaint. Complaints that repeat the allegations of previous complaints may be dismissed if they contain no new, material information that was not previously considered. See Rule 11(c)(2), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The complaint contains no new information or allegations, and thus may be dismissed under Rule 11(c)(2). Even were it not a repetition of the previous complaint, the current complaint

would still be appropriately dismissed as directly related to the merits of the judge's rulings 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, as were the complainant's two previous complaints.

For these reasons, this complaint is dismissed as repetitive of the previous complaint pursuant to Rule 11(c)(2) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: December 22, 2014