

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

In re:  
Complaint of Judicial Misconduct

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\*Nos. 06-14-90111/112  
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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 and magistrate judges who were assigned to and dismissed at least six separate civil actions. The complainant challenges rulings made below by both subject judges and contends that both judges should have recused because of conflicts of interest. She alleges that both judges receive retirement benefits from the state of Tennessee, which was named as a defendant in at least one of the underlying actions; that the district judge held shares and had accounts in a bank that was located in a county that was named a defendant in one of the underlying actions; and that the magistrate judge owned stock in a company that used toxic fluoride—a substance the use of which by another party the complainant challenged in at least one of her underlying actions.

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 complaint is subject to dismissal as directly related to the merits of the named judges’ 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. A simple allegation that a judge should have recused is merits related and thus not cognizable in a judicial complaint. See *Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice: Judicial Conduct and Disability Act Study Committee*, Sept. 2006, p. 146. “The very different allegation that the judge failed to recuse for illicit reasons—*i.e.*, not that the judge erred in recusing, but that the judge knew he should recuse but deliberately failed to do so for illicit purposes—is not merits related.” *Id.* The complainant does not allege any reason, much less an illicit one.

For these reasons, the complaint will be 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.

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

Date: January 13, 2015