

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

In re:
Complaint of Judicial Misconduct

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*No. 06-15-90001
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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 presided over the complainant's habeas corpus actions. The complainant argues that the subject judge should have recused from his case based on his long history of denying petitions under 28 U.S.C. § 2241 filed by inmates incarcerated at the Federal Correctional Institute in Ashland, Kentucky. The complainant argues that this history shows the subject judge's bias against him and in favor of the Warden of FCI Ashland and the Federal Bureau of Prisons.

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 complainant does not explain how or why the subject judge's actions in other cases shows bias against him personally. Habeas petitions under 28 U.S.C. § 2241 are frequently filed and not often granted: even if we assume that all of complainant's allegations regarding the subject judge's record in these kind of cases are true, he has not and cannot show that the subject judge's record in other cases bears on his own case. Even if the complainant had alleged that the subject judge's actions in these other cases evidenced a bias toward prisoners in general, he would be unable to show that the judge's decisions in these other cases were related to something other than the merits of each case. Because complainant's allegations, even if taken as true, do not show bias on the part of the subject judge, this complaint is subject to dismissal pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Accordingly, the complaint will be dismissed pursuant to 28 U.S.C.352(b)(1)(A)(iii) and Rule 11(c)(1)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: August 17, 2016