

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

In re:
Complaint of Judicial Misconduct

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*No. 06-15-90014
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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 denied his recent motion for a writ of audita querela. The complaint alleges that the district judge failed to read and apply governing case law.

After conducting an initial review, the chief judge may dismiss a misconduct 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”; (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.

An initial review reveals that the complainant is serving a life sentence for drug offenses. In January 2015, the complainant filed a motion for a writ of audita querela. The district judge denied the motion. The complainant has filed an appeal, which remains pending.

This complaint is subject to dismissal under Rule 11(c)(1)(B) because it is directly related to the merits of the district judge’s decision. See also 28 U.S.C. § 352(b)(1)(A)(ii). A challenge to the merits of a district judge’s rulings is outside the scope of judicial-misconduct and judicial-disability proceedings. 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 any ruling by a judge. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331, 331-32 (6th Cir. 1988).

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: April 1, 2015