

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

In re:  
Complaint of Judicial Misconduct

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\*No. 06-15-90020  
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**M E M O R A N D U M**

This complaint of judicial misconduct was filed by a former prisoner against the district judge who was assigned to his habeas corpus proceeding in 2005. The complaint alleges generally a “racist conspiracy” resulting in the complainant’s state-court conviction on a drug charge. The specific allegations against the district judge are that the judge dismissed the complainant’s habeas petition and denied the complainant’s motion for relief from that judgment despite “receiv[ing] all the pertinent documentation[] to allow justice to prevail.”

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.

A review of the district-court record reveals that the district judge dismissed the complainant’s petition for a writ of habeas corpus, filed under 28 U.S.C. § 2254, as untimely. After the court of appeals denied the complainant’s application for a certificate of appealability and the Supreme Court denied his petition for a writ of certiorari, the complainant moved for relief from the judgment under Federal Rule of Civil Procedure 60(b)(3). The district judge denied that motion in June 2009.

This complaint is subject to dismissal under Rule 11(c)(1)(B) as directly related to the merits of the district judge’s rulings. See *also* 28 U.S.C. § 352(b)(1)(A)(ii). Any challenge to the merits of a judge’s decision is outside the scope of judicial-misconduct 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).

Accordingly, 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: June 29, 2015