

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

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**OFFICE OF THE
CIRCUIT EXECUTIVE**

In re:
Complaint of Judicial Misconduct

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*No. 06-15-90032
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [REDACTED] (“complainant”) against the Honorable [REDACTED] [REDACTED] (“subject judge”), pursuant to 28 U.S.C. § 351. The complaint alleges that the subject judge, to whom the complainant’s underlying civil-rights action was assigned, is biased against him and has not timely ruled on his motions. Supplement materials filed after the complaint apparently allege that the subject judge retaliated against the complainant. The complainant also alleges in those materials that he informed this circuit’s chief judge about the retaliation and was told by the judge’s deputy clerk that it would be investigated.

Because this circuit’s chief judge has recused himself from this matter, the complaint is referred to the undersigned pursuant to 28 U.S.C. § 351(c), which provides that a judicial complaint against a chief judge be transmitted “to that circuit judge in regular active service next senior in date of commission.” Rule 25(f) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings provides that, where a chief judge is disqualified, his or her duties “must be assigned to the most-senior active circuit judge not disqualified.”

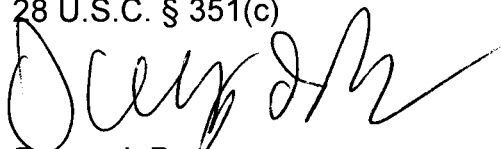
After conducting an initial review, the chief judge may dismiss a complaint as to which he concludes: (A) that the claimed conduct, even if it occurred, “is not prejudicial to the effective and expeditious administration of the business of the courts and does not indicate a mental or physical disability 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.

An initial review of the district-court record reveals that the complainant filed his civil-rights action in January 2015. The 32 named defendants include President Barack Obama, the Reverend Jesse Jackson, the Supreme Court of the United States, the Federal Bureau of Investigation, Jimmy Hoffa, the Illinois State Police, and the state of Arkansas. Because the 83 page complaint was essentially incomprehensible, the subject judge dismissed for failure to state a claim.

The instant judicial complaint suffers from the same flaws as the civil-rights complaint dismissed by the subject judge. The only support for the allegation of bias was that the subject judge was appointed by former President George W. Bush, who was also a named defendant in the action. Because the complainant's allegations of bias are fanciful and unsupported by any evidence, as are his post-complaint allegations of retaliation, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(C) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. To the extent that the complaint alleges delay in ruling on the complainant's motions, it is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Rule 3(h)(3)(B) provides that a delay in making a ruling does not constitute misconduct absent a showing of improper motive or habitual delay. Review of the district-court record reveals that the complainant cannot make a showing of anything more than routine delay. Indeed, all of the complainant's motions were adjudicated, and the action dismissed, in June 2015.

For these reasons, it is **ORDERED** that the complaint be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(C) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Entered as Chief Judge Pursuant to
28 U.S.C. § 351(c)



Danny J. Boggs

Date: 12/16/16