

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

In re:  
Complaint of Judicial Misconduct

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\*Nos. 06-15-90041/42  
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**M E M O R A N D U M**

This complaint of judicial misconduct was filed by a pretrial detainee against the district judge and magistrate judge who were assigned to the complainant's civil-rights action. The complaint alleges that the district judge improperly dismissed certain defendants from the action and that the magistrate judge improperly denied the complainant's motions to amend his civil-rights complaint.

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 all but one defendant from the complainant's civil-rights action. The complainant then filed several motions to amend his civil-rights complaint. The magistrate judge denied those motions but gave the complainant 14 days to file a single, complete amended complaint. Meanwhile, the complainant appealed the district judge's partial dismissal order and filed another motion to amend, which the magistrate judge declined to consider while the appeal was pending.

After the court of appeals dismissed the appeal for lack of jurisdiction, the magistrate judge considered the complainant's proposed amended complaint. The magistrate judge issued a report recommending that several new defendants be dismissed. The magistrate judge ordered service on the other new defendants. The complainant objected to the report and recommendation, and the case remains pending.

This complaint is subject to dismissal under Rule 11(c)(1)(B) because it is directly related to the merits of the subject judges' orders. See also 28 U.S.C. § 352(b)(1)(A)(ii). Any challenge to the merits of a judge's decisions 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).

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: August 28, 2015