

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

In re:
Complaint of Judicial Misconduct

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*No. 06-15-90058
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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 was assigned to his civil-rights action. The complaint alleges that the district judge falsely stated that the complainant failed to state a claim, falsely stated that two defendants were not responsible for the complainant's health, and incorrectly applied the statute of limitations.

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 screened the complainant's civil-rights action and dismissed certain claims. In particular, the district judge dismissed the claims against one defendant because it is not a suable entity, dismissed all official-capacity claims for damages, and dismissed a portion of the complainant's claims as barred by the statute of limitations. Otherwise, the district judge allowed the action to proceed. Later, the district judge granted the complainant's motion to amend his complaint, thereby allowing the case to proceed against an additional defendant.

This complaint is subject to dismissal under Rule 11(c)(1)(B) because all of its allegations are directly related to the merits of the district judge's partial dismissal order. 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: November 10, 2015