

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

In re:
Complaint of Judicial Misconduct

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* Nos. 06-15-90077/78/
* 79/80/81/82/83/84
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M E M O R A N D U M

This complaint of judicial misconduct was filed by the unsuccessful plaintiff in a discrimination action. The complainant has filed a number of complaints and related materials in which he challenges the conduct of the district and magistrate judges to whom his case was assigned and the appellant judges who sat on the panels that heard his three separate appeals from the dismissal of that case.¹ The complaints were prolix (several were returned for substantially exceeding the page limitation) and extremely difficult to decipher. Under the most indulgent reading, the complainant is dissatisfied with the outcome of his discrimination action and the three appeals to which it gave rise.

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.

One of the judges named in the complaint, though actively serving when the complaint was filed, has since retired. The complaint against that judge will therefore be dismissed pursuant to Rule 11(a)(3) & (e) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings because his retirement has removed him from the ambit of the judicial complaint process.

¹ Because two of the judges named in this complaint were no longer serving as federal judges (one deceased and one retired) at the time the complaint was filed, no numbers were assigned with respect to those judges.

As to the remainder of the subject judges, the complaint is subject to dismissal as directly related to the merits of the named judges' decisions in the underlying proceedings 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. Such decisions are not the proper subject of a complaint of judicial misconduct. 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 the named judges' rulings or to grant relief requested in the underlying case. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (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(a)(3), (c)(1)(B), & (e) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

/s/ *R. Guy Cole, Jr.*
Chief Judge

Date: November 10, 2015