

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

In re:
Complaint of Judicial Misconduct

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*No. 06-15-90085
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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 litigant against the district judge who was initially assigned to his civil action. The complaint alleges that “the case was dismissed perfunctorily,” causing the complainant to be “denied [his] constitutional due process rights.”

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 and two other plaintiffs filed a civil action pro se. An attorney soon entered an appearance for the plaintiffs, but then filed a notice of voluntary dismissal. The complainant moved pro se to reinstate the action. While that motion was pending, the case was reassigned from the subject district judge to another district judge. Several months later, the second judge denied the motion to reinstate the action.

Insofar as it attributes responsibility for the dismissal of the complainant’s action to the subject district judge, this complaint is frivolous. See 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The record demonstrates that the action was dismissed voluntarily and that a different district judge denied the motion for reinstatement. Any allegation that the subject judge engaged in misconduct is wholly unsupported.

For these reasons, this complaint will be dismissed 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.

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

Date: November 10, 2015