

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

In re:  
Complaint of Judicial Misconduct

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\*No. 06-15-90094  
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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 assigned to his civil action. The complaint alleges that the district judge adopted a magistrate judge's report and recommendation and dismissed the complainant's action without allowing the complainant time to object to the report and recommendation. The complaint further alleges that the district judge refused to correct this error.

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 magistrate judge's report and recommendation was filed on April 7, 2011. According to the attached certificate of service, it was mailed to the complainant that same day. On May 6, 2011, the district judge entered an order adopting the magistrate judge's report and recommendation and dismissing the action. The complainant appealed, and the court of appeals affirmed the dismissal order. The complainant filed several motions for reconsideration in the district court, and the district judge denied them all.

This complaint is subject to dismissal on the ground that it is directly related to the merits of the district judge's rulings. See 28 U.S.C. § 352(b)(1)(A)(ii); Rule 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. 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, this complaint will be dismissed under 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: January 20, 2016