

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

In re:
Complaint of Judicial Misconduct

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*No. 06-15-90106
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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 the complainant's civil action. The complaint alleges that the district judge has familial relationships with an employee of one defendant and an attorney for another defendant in the civil action, causing him to be biased against the complainant and to exhibit favoritism toward the defendants.

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 filed a civil action against two defendants. After the case was removed from state court and assigned to the subject district judge, one defendant answered the complaint and the other filed a motion to dismiss. The district judge granted the motion to dismiss and directed the complainant to show cause why her claims against the first defendant should not also be dismissed. The complainant responded to the show-cause order, and the district judge dismissed the action. The judge also denied the complainant's motion for reconsideration.

The complainant then moved to recuse the district judge, contending that he has familial relationships with an employee of one defendant and with an attorney for the other. The district judge denied the motion, stating that he has no familial relationship with the attorney and that the employee is a "distant cousin" who has no involvement in the case.

This complaint is subject to dismissal on the grounds 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 rulings 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 decision by a judge. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331, 331-32 (6th Cir. 1988). Aside from the alleged grounds for recusal that the district judge rejected, as well as the judge's other adverse rulings, the complaint identifies no basis for its allegations of bias.

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