

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

In re:  
Complaint of Judicial Misconduct

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\*No. 06-15-90134  
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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 two civil-rights actions that the complainant filed. The complaint alleges that the district judge denied the complainant's motions for in forma pauperis ("IFP") status in both actions maliciously and in retaliation for the complainant's filing of a motion for recusal in the second action. The complaint further alleges that the district judge improperly prevented him from appealing the orders denying IFP status and the judgment in the first action.

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 complainant filed civil-rights actions in 2014 and 2015 and moved for IFP status in each case. While the IFP motions were pending, the complainant moved to recuse the district judge from the 2015 case. Several months later, the district judge denied the IFP motion in the 2014 case, ordered the complainant to pay the full filing fee, and prohibited the complainant from filing further documents until the fee was paid. When the complainant failed to pay the fee, the district judge dismissed the action. The complainant's notices of appeal from the IFP denial and the dismissal were not accepted for filing, due to the non-payment of the fee. The district judge also denied the IFP motion in the 2015 case and, as he did in the 2014 case, ordered the complainant to pay the full filing fee and prohibited the filing of further documents until the fee was paid.

To the extent that it challenges the merits of the orders and judgment entered by the district judge, this complaint is subject to dismissal under Rule 11(c)(1)(B). See also 28 U.S.C. § 352(b)(1)(A)(ii). 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 ruling by a judge. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331, 331-32 (6th Cir. 1988).

The complaint's allegations that the district judge acted with a retaliatory or other improper motive are entirely unsupported. Thus, the complaint is subject to dismissal in part under Rule 11(c)(1)(C). See also 28 U.S.C. § 352(b)(1)(A)(iii).

For these reasons, the complaint will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii) and Rule 11(c)(1)(B) & (C) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: August 17, 2016