

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

In re:
Complaint of Judicial Misconduct

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*No. 06-16-90002
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by **[REDACTED]** (“complainant”) against the Honorable **[REDACTED]** (“subject judge”), pursuant to 28 U.S.C. § 351. The complaint alleges that the subject judge caused the complainant’s civil action to be reassigned to the subject judge from another judge in order to continue “a pattern of discrimination” and prevent the case from being heard on the merits.

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; see 28 U.S.C. § 352(a), (b).

A review of the district-court record reveals that the subject judge and the judge to whom the complainant’s civil action was initially assigned both signed an order reassigning the action to the subject judge. The stated reason for the reassignment was that a companion case was already pending before the subject judge.

To the extent that it challenges the merits of the reassignment order, 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 complaint’s allegations that the subject judge acted with a discriminatory motive, in order to deprive the complainant of his constitutional right to be heard, are

entirely unsupported. The complaint is thus subject to dismissal in part under Rule 11(c)(1)(C). See also 28 U.S.C. § 352(b)(1)(A)(iii).

This is the complainant's ninth judicial complaint. All have been summarily dismissed as frivolous, baseless, merits related, or repetitious of previous complaints. Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings allows the imposition of restrictions on complainants who abuse the process by filing "repetitive, harassing, or frivolous complaints." Complainant is hereby put on notice that Rule 10 will be invoked if he continues to file complaints of this nature, and the matter will be referred to the Judicial Council for consideration of the imposition of restrictions on his continuing ability to file.

For these reasons, it is **ORDERED** that the complaint 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: October 12, 2016