

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

In re:
Complaint of Judicial Misconduct

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*No. 06-16-90022
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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, acting out of bias against the complainant and in favor of “fellow officers of the court,” allowed the complainant’s home to be sold at auction and made other rulings without explanation or a basis in law. The complaint further alleges that the subject judge engaged in ex parte communications, violated rules of court administration, and treated the complainant rudely and abusively.

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).

An initial review of the bankruptcy-court records reveals that the complainant filed a voluntary petition under Chapter 13 in 2012. The complainant’s former attorney moved for relief from the automatic stay in order to enforce a judgment lien against the complainant’s real property, and the subject judge granted the motion. The complainant then moved to dismiss the petition, and the subject judge granted that motion as well. Three years later, the complainant filed another voluntary petition under Chapter 13. In that proceeding, the subject judge granted the complainant’s former attorney’s motion for an examination of the complainant, denied the complainant’s motion for a release of funds, and dismissed the case when the complainant failed to appear at a hearing.

To the extent that it is based on the subject judge’s decisions to grant or deny various motions, this judicial-misconduct 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 decision by a judge. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331, 331-32 (6th Cir. 1988).

The complaint's allegations of bias, ex parte communication, rules violations, and abusive treatment are wholly unsupported and thus subject to dismissal under Rule 11(c)(1)(C). See also 28 U.S.C. § 352(b)(1)(A)(iii). The complaint alleges, and the record contains, no facts demonstrating bias or improper action on the part of the subject judge.

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