

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

In re:
Complaints of Judicial Misconduct

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*No. 06-16-90033
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MEMORANDUM AND ORDER

These complaints of judicial misconduct were filed by **[REDACTED]** (“complainants”) against the Honorable **[REDACTED]** (“subject judge”), pursuant to 28 U.S.C. § 351. The complaints are difficult to comprehend, but appear to be an amalgam of the complaint and related documents that the complainants filed in the subject judge’s court, where they sued the local tax assessor, claiming to be exempt from property taxes because of their status as “Aboriginal Indigenous Moorish American Nationals.” That action was dismissed by the subject judge for failure to state a claim. The complainants now challenge a number of rulings made by the subject judge below, including, apparently, the subject judge’s denial of their motion for default, dismissal of their complaint, and denial of permission to appeal in forma pauperis. They also alleged that the subject judge tampered with evidence and/or changed docket entry dates.

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.

That part of the complaints that directly challenge the subject judge’s rulings below are subject to dismissal as directly related to the merits of the named judge’s decision in complainants’ underlying proceedings, pursuant to 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. Such decisions are not the proper subject of a complaint of judicial misconduct. 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 rulings by a judge, or to grant

the relief that may be requested in the underlying case. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988).

The complainants' allegations that the subject judge tampered with and/or changed documents of record are convoluted and difficult to understand. Those allegations are based, at least partially, on the fact that the complainants were unaware that defendants below had timely answered the complaint and filed a motion to dismiss until the subject judge granted their motion. They appear to allege that the judge somehow manipulated filing dates to make the defendants untimely motion to dismiss timely, and to make the order dismissing their case appear as if was filed after they had filed their own motion for the entry of default. They also point to a discrepancy between the subject judge's final order and the docket entry reflecting it: In his order, the subject judge concluded that an appeal could not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3)—the docket entry reflecting the order stated that "[a]n appeal from this decision can be taken in good faith." From this, the complainants conclude that the subject judge somehow changed his order.

Complainants' allegations that the subject judge tampered with and/or altered documents in their case are insufficiently supported by credible facts to warrant either a limited inquiry as authorized by 28 U.S.C. § 352(b) or an investigation by a special committee appointed pursuant to 28 U.S.C. § 353. The discrepancy between the docket sheet and the judge's final order is patently a scrivener's error by the docket clerk, as is evidenced by the fact that the docket entry for the judgment on that order has the correct language (i.e., that "an appeal could **not** be taken in good faith"). "An allegation may be dismissed as 'inherently incredible' even if it is not literally impossible for the allegation to be true. An allegation is inherently incredible if no reasonable person would believe that the allegation, either on its face or in light of other available evidence, could be true." Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice, Judicial Conduct and Disability Act Study Committee, Sept. 2006, p. 148. This part of the complaints therefore will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

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

Date: December 16, 2016