

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

In re:  
Complaint of Judicial Misconduct

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\*No. 06-16-90035  
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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.<sup>1</sup> The sole allegation in the complaint is that the subject judge lied in the report and recommendation he prepared in the complainant’s underlying civil case, an appeal from which is currently pending in this court. Attached to the complaint is a copy of the pro se brief that complainant filed in this court, in which he challenges several of the factual findings made by the subject judge in his report and recommendation.

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.

The complaint will be dismissed pursuant to Rule 11(a)(3) & (e) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings because the subject judge has retired, rendering the judicial complaint process nugatory. Even were the subject judge still active and thus within reach of the complaint process, the complaint would be subject to dismissal as directly related to the merits of the named judge’s decision in complainant’s underlying proceedings, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(c)(1)(B) of the Rules for

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<sup>1</sup> The complaint form also lists the Honorable **[REDACTED]**. Because the complainant makes no allegations against **[REDACTED]** anywhere in his complaint, no complaint has been opened against her.

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).

For these reasons, it is **ORDERED** that the complaint be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(a)(3), (c)(1)(B) & (e) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: December 16, 2016