

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

In re:
Complaint of Judicial Misconduct

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*No. 06-16-90048
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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 complainant alleges that the subject judge erred in dismissing his civil action and denying various post-judgment motions. More particularly, the complainant alleges that the subject judge’s decisions are “invalid”; that the decisions violated the Crime Victims Act, the Americans with Disabilities Act, the doctrine of res judicata, the Federal Rules of Civil Procedure, and other rules; that the subject judge failed to order the defendants to settle; that the subject judge denied the complainant a fair trial; and that the subject judge acted on the basis of personal feelings rather than the law. The complainant seeks an order reopening his civil action and vacating the subject judge’s rulings.

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 record reveals that the complainant filed a copyright infringement action that was assigned to the subject judge. The subject judge granted the defendants’ motion to dismiss and entered judgment. The complainant moved for reconsideration and other relief, and the subject judge denied the motions. The complainant then moved to schedule a jury trial, to “recall and rescind” the judgment, and to reopen the case (twice). The subject judge denied each of these motions.

This complaint challenges the propriety of the subject judge’s rulings on various motions in the complainant’s civil action. Accordingly, it 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). Nor can the Judicial Council order the relief that the complainant has requested.

To the extent that the complaint alleges bias, it is subject to dismissal under Rule 11(c)(1)(C) as wholly unsupported. See also 28 U.S.C. § 352(b)(1)(A)(iii).

Accordingly, 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: December 16, 2016