

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

In re:  
Complaint of Judicial Misconduct

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\*No. 06-16-90058  
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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 has refused to release transcripts and exhibits that prove the complainant’s innocence.

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 was the defendant in a criminal matter assigned to the subject judge. The complainant pleaded guilty pursuant to a plea agreement. At the sentencing hearing, the complainant testified and offered several exhibits, marked A through H, into evidence. The subject judge imposed the agreed-upon sentence.

The central allegation of this misconduct complaint is that the subject judge has not provided the complainant with a transcript of the sentencing hearing and copies of exhibits A through H. Significantly, the complainant did not appeal his sentence and, at the time of filing this complaint, had not moved for copies of the transcript or exhibits. The subject judge’s failure to order production of such copies *sua sponte* does not constitute misconduct. This complaint is thus subject to dismissal under Rule 11(c)(1)(A). See *also* 28 U.S.C. § 352(b)(1)(A)(iii).

If the subject judge had denied a request for copies of the transcript and exhibits, a fact not reflected by the record, the complaint would be subject to dismissal under Rule 11(c)(1)(B). See *also* 28 U.S.C. § 352(b)(1)(A)(ii).

Accordingly, it is **ORDERED** that the complaint be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: December 16, 2016