

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

In re:
Complaint of Judicial Misconduct

*
*
*No. 06-16-90060
*
*
*
*

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 “placed a wager” with the complainant and, when the complainant refused to wager, “became belligerent” and threatened to jail the complainant for contempt of court. The complaint further alleges that the subject judge “was working closely” with opposing counsel in the complainant’s civil action, as evidenced by the judge’s anticipation that counsel would make a motion under Rule 50 of the Federal Rules of Civil Procedure.

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, proceeding pro se, was the plaintiff in a civil action that was assigned to the subject judge. The case was tried to a jury, which returned a verdict in favor of the defendant.

Neither the complaint nor the record contains any evidence that the subject judge “placed a wager” with the complainant or threatened to jail him for contempt of court. Those allegations are subject to dismissal under Rule 11(c)(1)(D). See also 28 U.S.C. § 352(b)(1)(A)(iii). To the extent that it alleges collusion between the subject judge and the complainant’s opposing counsel, the complaint is wholly unsupported and implausible and thus subject to dismissal under Rule 11(c)(1)(C). 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)(iii) and Rule 11(c)(1)(C) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: December 16, 2016