

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

In re:
Complaint of Judicial Misconduct

*
*
*Nos. 06-16-90074/75
*
*
*
*

MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by **[REDACTED]** (“complainant”) against the Honorable **[REDACTED]** (“subject judges”), pursuant to 28 U.S.C. § 351. The complainant alleges that the subject judges rejected and disregarded discovery materials that he filed in his civil-rights action. He further alleges that the subject judges ignored an act of perjury committed by a defendant in the civil action.

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 civil-rights action that was assigned to the subject judges. On at least two occasions, the complainant filed collections of documents that he characterized as “discovery” or “exhibits.” The subject magistrate judge ordered that one such filing be stricken, and the subject district judge upheld that order, but at least one other such filing was allowed to remain on the docket. The parties cross-moved for summary judgment. In his opposition to the defendants’ motion, and in a separately filed notice, the complainant contended that statements that one of the defendants made in a supporting affidavit were false. Notwithstanding that contention, the subject magistrate judge recommended that the defendants’ motion for summary judgment be granted and that the complainant’s motion be denied. The subject district judge adopted the recommendation.

The gravamen of this judicial-misconduct complaint is that the subject judges made recommendations and rulings without relying on, or without being persuaded by, the evidence and arguments that were submitted by the complainant. Because it is directly related to the merits of the subject judges' decisions, the complaint 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 decision 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).

Accordingly, it is **ORDERED** that the complaint be dismissed 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.

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

Date: March 14, 2017