

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

In re:
Complaint of Judicial Misconduct

*
*
*Nos. 06-16-
*90083/84/85
*
*
*

MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [REDACTED] (“complainant”) against the Honorable [REDACTED] (“subject judge 1”), the Honorable [REDACTED] (“subject judge 2”), and the Honorable [REDACTED] (“subject judge 3”), pursuant to 28 U.S.C. § 351. The gravamen of the complaint is a factual dispute over whether the complainant filed a traverse to the respondent’s return of the writ in the underlying habeas corpus proceedings. Subject judge 3 is faulted for stating in the Report and Recommendation that no traverse was filed, subject judge 2 for repeating that statement in the order adopting the Report and Recommendation, and subject judge 1 for negligence in managing subject judges 1 and 2. All are charged with conspiring to “hide” the alleged traverse, and all three are alleged to be suffering from a mental defect, specifically megalomania, a condition which he intimates is shared by many occupants of the bench.

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 focal point of this complaint is a specific factual finding made in the underlying proceedings. Such matters 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 complaint is therefore subject to dismissal as directly related to the merits of judicial decisions made in the underlying proceedings, 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. And the complainant may not avoid this stricture by couching his challenge to such rulings in the language of conspiracy or disability. Even if the complainant was not using his conspiracy and disability allegations as a transparent attempt to challenge judicial rulings in the underlying proceedings, those allegations would be independently dismissed as frivolous, as they are wholly unsupported by any evidence. See 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(C) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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: April 6, 2017