

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

In re:
Complaint of Judicial Misconduct

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*No. 06-16-90094
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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 allowed opposing counsel to speak first and to speak longer at a status conference in her civil action; that the subject judge did not allow her to address certain issues at the conference; that the subject judge ordered her to settle the case; and that the subject judge was hostile, biased, and prejudiced.

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, filed a civil action that was referred to the subject judge. In November 2016, the subject judge conducted a status conference regarding the procedural posture of the case and several motions that were pending. A transcript of the conference, from which all of the complainant’s allegations arise, is in the record.

The record reflects that, at the outset of the status conference, the subject judge asked counsel for the defendant to summarize certain state-court proceedings that were related to the pending federal action. The complainant was given ample opportunity to respond to counsel’s statements, as well as significant leeway to discuss the merits of her action, although the stated purpose of the conference was to address procedural matters. To the extent that this judicial-misconduct complaint alleges that the subject judge allowed defense counsel to speak first and to speak longer, it is subject to dismissal under Rule 11(c)(1)(A) because the alleged conduct was not prejudicial to the effective and expeditious administration of the business of the courts.

The record conclusively refutes the complainant's allegations that the subject judge ordered her to settle her action, and it reflects no hostility, bias, or prejudice on the part of the subject judge. Accordingly, with respect to those allegations, the complaint is subject to dismissal under Rule 11(c)(1)(C) as wholly unsupported. See *also* 28 U.S.C. § 352(b)(1)(A)(iii) & (b)(1)(B).

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

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

Date: April 6, 2017