

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

In re:
Complaint of Judicial Misconduct

*
*
*No. 06-16-90100
*
*
*
*
*

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 mishandled his criminal proceeding in multiple ways, including by remanding him into federal custody while state proceedings were pending, allowing appointed attorneys to provide ineffective assistance, improperly denying a motion to suppress evidence, allowing a court reporter to alter transcripts, conspiring with the government and defense counsel, violating his speedy trial rights, forcing him to represent himself at trial, allowing sentencing counsel to sabotage his case, and admitting false evidence at trial.

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 subject judge presided over a criminal proceeding against the complainant. Among other things, the subject judge denied a motion for release on bond pending trial, denied a motion to revoke the detention order, granted a motion to withdraw as counsel and appointed new counsel, granted the complainant’s motion to continue the trial date, denied a second motion to withdraw as counsel, denied a motion to suppress evidence, granted a motion for appointment of new counsel, denied the complainant’s second motion to continue the trial date and several motions to dismiss the indictment, denied a motion for appointment of new counsel and found that the complainant had waived his right to trial counsel, appointed sentencing counsel, and denied various post-conviction motions.

The allegations of this judicial-misconduct complaint are based on rulings that the subject judge made before, during, and after trial. The complaint is therefore 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 rulings 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).

To the extent that the complaint alleges bias, conspiracy, or other conduct aside from the subject judge's rulings, it is subject to dismissal under Rule 11(c)(1)(C) as wholly unsupported by the record. See *also* 28 U.S.C. § 352(b)(1)(A)(iii).

For these reasons, 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: May 25, 2017