

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

In re:
Complaint of Judicial Misconduct

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*No. 06-16-90124
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [REDACTED] (“complainants”) against the Honorable [REDACTED] (“subject judge”), pursuant to 28 U.S.C. § 351. The complaint alleges that the subject judge improperly denied the complainants’ motion for a preliminary injunction in their civil-rights action. The complaint further alleges that the subject judge has discriminated against the complainants because they are prisoners, favored the defendants in the civil-rights action, and conspired with the defendants to deny the complainants a fair adjudication of their claims.

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 was assigned to the complainants’ civil-rights action. The complainants moved for a preliminary injunction, and the subject judge denied the motion. The complainants have taken an interlocutory appeal from that decision.

To the extent that it is based on the subject judge’s denial of the complainants’ motion for a preliminary injunction, this judicial-misconduct 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 ruling 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). The complainants' remedy is their appeal to the court of appeals.

The remainder of the complaint's allegations are subject to dismissal under Rule 11(c)(1)(C) because they are wholly unsupported by the record. See *also* 28 U.S.C. § 352(b)(1)(A)(iii). The complainants have not identified anything in the record, or offered any other evidence, that might support their claims of discrimination, bias, and conspiracy.

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: July 5, 2017