

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

In re:  
Complaint of Judicial Misconduct

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\*Nos. 06-16-  
\*900125/127/128/129/  
\*130/131  
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**MEMORANDUM AND ORDER**

This complaint of judicial misconduct was filed by [REDACTED] ("complainant") against the Honorable [REDACTED] ("subject judge 1"); the Honorable [REDACTED] ("subject judges 2, 3, & 4"); the Honorable [REDACTED] ("subject judge 5"); and the Honorable [REDACTED] ("subject judge 6"). The complainant names only subject judge 6 in the complaint form, but makes allegations of misconduct against the other five subject judges in the narrative attachment. This is the third complaint he has filed against subject judge 6, and the second against subject judge 5. Those previous complaints alleged bias on the part of and a conspiracy between those two judges and others which resulted in unfavorable rulings in two underlying actions. All of the allegations in those complaints were summarily dismissed as merits-related and/or unsupported by sufficient facts, pursuant to Rule 11(c)(1)(B)-(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The current complaint raises the same kind of allegations against subject judges 5 and 6 that were raised in the previous complaints. Subject judges 3, 4, & 5, who sat on the appellate panel that affirmed one of the actions dismissed by subject judge 6, are charged in the current complaint with disregarding the complainant's rights, denying him a hearing, and declining to "take judicial notice of conclusive evidence that proved all of [complainant's] claims." And the complainant charges subject judge 1 with falsely stating, in connection with his denial of previous judicial complaints, that "the record did not show that anything was wrong."

Because this circuit's Chief Judge is named in this complaint, the matter was referred to the undersigned pursuant to 28 U.S.C. § 351(c), which provides that a judicial complaint against a chief judge be transmitted "to that circuit judge in regular active service next senior in date of commission." Rule 25(f) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings provides that, where a chief judge is disqualified, his or her duties "must be assigned to the most-senior active circuit judge not disqualified."

After conducting an initial review, the chief judge may dismiss a misconduct complaint as to which he or she 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.

The allegations against subject judges 5 and 6 are subject to dismissal for the same reasons that supported dismissal of the previous complaints. To the extent any of the current allegations relate to conduct in underlying civil actions that were filed after the previous complaint, those allegations are, again, wholly unsupported by the record or are directly related to the merits of those underlying actions. See 28 U.S.C. § 352(b)(1)(ii) & (iii); Rule 11(c)(1)(B), (C) & (D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The allegations against subject judges 1, 2, and 3 are merits challenges to their unanimous ruling on complainant's appeal. The allegations against those judges are therefore subject to dismissal as directly related to the merits of the named judges' decisions in complainant's underlying civil action 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. Such decisions are not the proper subject of a complaint of judicial misconduct. Nor are decisions made in connection with judicial misconduct proceedings. See Rule 3, Rules for Judicial-Conduct and Judicial-Disability Proceedings, Commentary. Thus, the allegations against subject judge 6, challenging his dismissal of previous complaints, are likewise subject to dismissal as merits-related.

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

Entered as Chief Judge Pursuant to  
28 U.S.C. § 351(c)



Alice M. Batchelder

Date: July 18, 2018