

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

In re:
Complaint of Judicial Misconduct

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*Nos. 06-17-
*90016/17/18
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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 judge 2”), and the Honorable **[REDACTED]** (“subject judge 3”), pursuant to 28 U.S.C. § 351. Subject judge 3 presided over an underlying civil action brought by the complainant, which was based on a speeding ticket. Subject judge 3 ultimately dismissed that action, and the complainant filed a judicial complaint against him. Subject judge 1 dismissed the judicial complaint against subject judge 3, and subject judge 2 signed the judicial council’s order affirming that decision. Complainant now charges all three judges with fraud and conspiracy, based on their rulings in the respective proceedings. He apparently also contends that all three are suffering from cognitive impairments, as demonstrated by the obviously incorrect rulings.

Because both subject judge 1, to whom judicial complaints are normally submitted, and subject judge 2, who normally hears such complaints when subject judge 1 is for any reason unable to, are both named in the instant 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 assigned judge may dismiss a 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 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 gravamen of this complaint is the complainant's dissatisfaction with the subject judges' rulings in his civil complaint, his judicial complaint, and his petition for review of the dismissal of his judicial complaint. 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. This exception includes decisions made in connection with judicial misconduct proceedings. See *id.*, Rule 3. The Judicial Council is not a court and has no jurisdiction to review any decision by a judge or panel of judges. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331, 331-32 (6th Cir. 1988). And the complainant may not avoid this stricture by couching his challenge to such rulings in the language of disability. Even if the complainant were not using his allegations of cognitive disability 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); Rule 11(c)(1)(C), Rules for Judicial-Conduct and Judicial-Disability Proceedings. This complaint is thus subject to dismissal as directly related to the merits of the named judges' decisions 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.

The complainant notes, almost in passing, at the end of his complaint, that he just realized that in “[o]ver 30 years of pro-se attorneys courts cases of complaints in courts in Cincinnati Ohio [he has] not won one case.” (Emphasis and excess punctuation omitted). Although he arguably attributes his lack of success to conspiracy (“to know that they have conspiratorial (sic) me from laws and constitutional laws in Cincinnati . . . is so sad and humiliating”), he does not make any direct allegations against any specific judges or a particular court, nor associate any of the named judges with the alleged conspiracy. To the extent he is alleging a conspiracy involving any of the named judges, those allegations are dismissed as frivolous, as they are wholly unsupported by any evidence. See 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Accordingly, it is **ORDERED** that this 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.

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

/s/ *Karen Nelson Moore*
Circuit Judge

Date: August 3, 2018