

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

In re:  
Complaint of Judicial Misconduct

\*  
\*  
\*No. 06-17-90058  
\*  
\*  
\*  
\*  
\*

**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 complaint alleges that the subject judge improperly denied a motion for reconsideration of an order denying the complainant’s motion for appointment of counsel in a civil action. The complaint further alleges that the subject judge improperly refused to recuse himself and denied all of the complainant’s motions. The complaint attributes the subject judge’s rulings to bias and prejudice.

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 complainant’s civil-rights action. The subject judge denied the complainant’s motion for appointment of counsel. The complainant then filed a motion for reconsideration of that ruling and an affidavit alleging that the subject judge was biased against him. The subject judge denied the motion for reconsideration.

The allegations of this judicial-misconduct complaint are based entirely on the subject judge’s rulings. 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). Nor does

the Judicial Council have jurisdiction to set aside the subject judge's orders, as requested by the complainant.

To the extent that the complainant's allegations of bias and prejudice can be separated from the merits of the subject judge's rulings, the complaint 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: October 24, 2017