

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

In re:
Complaint of Judicial Misconduct

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*No. 06-17-90087
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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 ignored complainant’s motion to recuse, which she filed in 2015, and denied her the use of hearing assistive devices. The subject judge responded to the complaint, pointing out that neither a motion to recuse or any request for hearing assistive devices had been filed or made before her and that she learned of such requests only when the complainant referred to them in an April 2017 letter to the chief bankruptcy judge. The chief bankruptcy judge ordered the letter to be filed in the Chapter 13 case that was pending at the time this complaint was filed and an earlier case, which had already been dismissed. The subject judge addressed both requests at that time.

After conducting an initial review, the chief judge may dismiss a 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 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.

Initial review of the documents and records belies the complainant’s allegations. A document that the complainant attached to her complaint shows that the 2015 motion to recuse was filed in the Trustee’s office, rather than the bankruptcy court, and that it does not appear on the docket in either of her bankruptcy cases. And no reference to any request for assistive hearing devices appears in the record until April 2017, when the complainant’s letter to the chief bankruptcy judge was filed in the complainant’s then-pending Chapter 13 case. Both requests were addressed at that

time. Because the record belies the complainant's allegations, this complaint of judicial misconduct must be dismissed as lacking any factual foundation pursuant to 28 U.S.C. § 352(b)(1)(B) and Rule 11(c)(1)(G) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. And to the extent the complainant is challenging the actions taken by the subject judge after the complainant's letter to the chief bankruptcy judge was filed in her Chapter 13 cases, those challenges are subject to dismissal as directly related to the merits of judicial decisions made in the underlying proceedings, 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.

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

/s/ R. Guy Cole, Jr.
Chief Judge

Date: January 17, 2018