

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

In re:
Complaint of Judicial Misconduct

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*Nos. 06-17-
*90104/105/117
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by **[REDACTED]** (“complainant”) against the Honorable **[REDACTED]**, the Honorable **[REDACTED]**, and the Honorable **[REDACTED]** (“subject judges”), pursuant to 28 U.S.C. § 351. The complainant alleges that the subject judges refused to accept facts that he set forth in declarations filed under 28 U.S.C. § 1746.

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 one of the subject judges denied the complainant a certificate of appealability in connection with a district court’s dismissal of his petition for a writ of habeas corpus. In the course of that ruling, the subject judge noted that the complainant’s factual submissions were too vague and lacking in detail to support his arguments that the district court erred. The second subject judge denied the complainant a certificate of appealability in connection with a motion for relief from judgment that the complainant had filed in his habeas corpus case. The third subject judge was on a three-judge panel that affirmed a judgment for the defendants in a civil rights action that the complainant had filed.

The sole allegation of this complaint of judicial misconduct is that the subject judges’ rulings ignored, or inadequately took account of, the facts set forth in the complainant’s declarations. The complaint is thus subject to dismissal under Rule

11(c)(1)(B) as directly related to the merits of the subject judges' orders. 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 or panel of judges. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331, 331-32 (6th Cir. 1988).

Accordingly, it is **ORDERED** that the complaint be dismissed 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.

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

Date: January 17, 2018