

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

In re:
Complaint of Judicial Misconduct

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*No. 06-17-90110
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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 complaint alleges that the subject judge acted without jurisdiction in entering an order that sanctioned the complainant and limited his access to the courts. The complaint also alleges bias and “prejudicial conduct.”

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, in 2005, the complainant filed a petition for a writ of coram nobis in federal district court, seeking relief from a 1973 conviction. The district judge dismissed the petition and, because of the complainant’s long history of repetitive and vexatious litigation regarding the 1973 conviction, imposed pre-filing restrictions on further actions challenging that conviction. When the complainant continued to file pleadings challenging the conviction, the district judge assessed a sanction of \$1000 and barred the complainant from filing additional civil actions until the sanction was paid.

In 2014, the complainant filed two new civil actions—one that was assigned to the subject district judge, and one that was assigned to a different judge of the same court. Because the complainant had not paid the \$1000 sanction that was imposed in the 2005 case, these actions were dismissed without prejudice.

This is the second misconduct complaint that the complainant has filed against the subject judge in connection with the sanctions order and the dismissal of the 2014 civil actions. This complaint is subject to dismissal for the same reasons that the prior complaint was dismissed—because the challenge to the sanctions order is merits-related and because the allegations of bias and “prejudicial conduct” are unsupported by the record. See Rule 11(c)(1)(B), (C), Rules for Judicial-Conduct and Judicial-Disability Proceedings; see *also* 28 U.S.C. § 352(b)(1)(A)(ii), (iii).

Accordingly, 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: March 29, 2018