

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

In re:
Complaint of Judicial Misconduct

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*No. 06-18-90002
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by **[REACTED]** (“complainant”) against the Honorable **[REACTED]** (“subject judge”), pursuant to 28 U.S.C. § 351. The complainant, a pro se litigant, alleges that the subject judge disregarded his motions and improperly ordered him to pay the civil filing fee. The complainant further alleges that the subject judge is biased against him.

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 complainant filed a civil action that was assigned to the subject judge. The complainant also filed motions for leave to proceed in forma pauperis (“IFP”), for emergency service of the civil complaint, and for certification of a class action. The subject judge ordered the complainant to either pay the filing fee or support his IFP motion with a certified prisoner trust fund statement. When the complainant objected that the prison cashier refused to provide certified copies of his trust fund statement, the subject judge withdrew the prior order and ordered that the complainant either pay the filing fee or submit an affidavit or declaration describing his attempts to obtain his trust fund statement.

To the extent that this misconduct complaint is based on the subject judge’s order requiring the complainant to pay the filing fee or submit a certified trust fund statement, it is 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). In any event, the subject judge has withdrawn the challenged order.

To the extent that it alleges bias, the complaint is entirely unsupported by the record and thus is subject to dismissal under Rule 11(c)(1)(C). See *also* 28 U.S.C. § 352(b)(1)(A)(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: July 11, 2018