

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

In re:
Complaint of Judicial Misconduct

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*No. 06-18-90008
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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 destroyed the case file for the complainant’s civil action.

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 in the Middle District of Tennessee. The judge to whom the case was first assigned ordered that it be transferred to the Eastern District of Tennessee. That court dismissed the action for failure to state a claim.

Thirteen months later, in the Middle District of Tennessee, the complainant filed a motion to reopen the case. The originally assigned judge having left the bench, that motion was assigned to the subject judge, who denied it. The docket reflects that the Middle District case file was destroyed ten months before the complainant filed his motion to reopen and the matter was assigned, for the first time, to the subject judge.

The record conclusively refutes the complainant’s allegation that the subject judge destroyed his case file. Moreover, the record does not support an inference that destruction of the file—after the case had been transferred to another district court and

then dismissed—constituted misconduct. This misconduct complaint is thus subject to dismissal under Rule 11(c)(1)(A), (C), and (D). 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)(iii) and Rule 11(c)(1)(A), (C), and (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: July 11, 2018