

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

In re:  
Complaint of Judicial Misconduct

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\*No. 06-18-90029  
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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. This is the complainant’s sixth judicial complaint: the previous five were all denied, either as impermissible challenges to merits rulings made in underlying proceedings or as frivolous. In the instant complaint, she challenges the report and recommendation entered by the subject judge in an underlying civil action, which involved the repossession of complainant’s car. The complainant alleges that the subject judge’s report “does not line with the evidence, federal statute, state[] statute, [and] contradicts [the defendant’s] own evidence.” (Capitalization, underline, and bold font omitted). The complainant attributes the subject judge’s recommendation of dismissal to racial bias and prejudice against pro se litigants.

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).

The gravamen of this complaint is the complainant’s dissatisfaction with the subject judge’s report and recommendation. She in fact incorporates into her judicial complaint, in lieu of an original argument, the objections to the report and recommendation that she filed in the underlying action. Matters relating to the merits of judicial rulings made in underlying proceedings are outside the scope of judicial misconduct proceedings, see Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings, and complainants may not avoid this stricture by couching their challenges to such rulings in the language of bias or prejudice. The complaint is

therefore 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.

Even if the complainant was not using her allegations of bias and prejudice as a transparent attempt to challenge judicial rulings in the underlying proceedings, those allegations would be independently dismissed as frivolous, as they are wholly unsupported by any evidence in the record or independently offered by the complainant. See 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), 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) & (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: November 5, 2018