

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

In re:
Complaint of Judicial Misconduct

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*No. 06-18-90068
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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 made errors in his decision dismissing the complainant’s civil action. The complaint further alleges that the subject judge was not impartial.

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 defendants filed various dispositive motions, which the subject judge granted. The complainant then filed motions for relief from judgment and for recusal, which the subject judge denied.

To the extent that this judicial-conduct complaint alleges that the subject judge erred in dismissing the complainant’s action, it is subject to dismissal under Rule 11(c)(1)(B) as directly related to the merits of the subject judge’s rulings. 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).

To the extent that the complaint alleges that the subject judge was not impartial, it is subject to dismissal under Rule 11(c)(1)(C) because that allegation is entirely

unsupported by the record. See *also* 28 U.S.C. § 352(b)(1)(A)(iii). The complainant suggests that dismissal of his civil action benefitted the subject judge's spouse. But the subject judge's spouse was not a party to the action, and nothing in the record suggests that she had any interest, financial or otherwise, in the disposition of the action. The complainant points to a receipt issued in April 2000 by the Supreme Court of Ohio's Clients' Security Fund, of which the subject judge's spouse was apparently the administrator, documenting a payment by the complainant to the Fund. That receipt in no way evidences a lack of impartiality on the part of the subject judge.

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: January 9, 2019