

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

In re:
Complaints of Judicial Misconduct

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*Nos. 06-18-
*90073/74/75
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MEMORANDUM AND ORDER

These complaints of judicial misconduct were filed by **[REDACTED]** (“complainant”) against the Honorable **[REDACTED]** and the Honorable **[REDACTED]**, and the Honorable **[REDACTED]** (“subject judges”). The subject district court judge presided over the complainant’s underlying employment-discrimination action, and the subject circuit court judges were on the panel that affirmed the latter’s grant of summary judgment for the defendants. In two identical complaints, the complainant alleges that all three subject judges were biased against him for being pro se and a “‘so called’ serial litigant.” According to the complainant, this bias, which was accompanied by unspecified violations of law and rules, is “clearly witnessed by the processing, case development, lack of due process, lack of adequate consideration, rulings, etc.” that he details in his complaint.

After conducting an initial review, the chief judge may dismiss a misconduct complaint as to which he or she 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.

The bulk of these identical complaints is devoted to re-argument of the merits of the underlying action. The gravamen of both is the complainant’s dissatisfaction with the outcome of his underlying lawsuit. A complainant may not avoid the strictures of Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, which prohibits use of the judicial complaint process to challenge the merits of rulings made in underlying proceedings, by disguising those challenges as unsupported allegations of bias. 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 were not using his bias allegations as transparent attempts to challenge judicial rulings made in the underlying proceedings, those allegations would be independently dismissed as frivolous, as they are wholly unsupported by any evidence. 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 complaints 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