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

	*
	*
In re:	*
Complaint of Judicial Misconduct	*No. 06-18-90081
	*
	*
	*
	*

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 complainant alleges that the subject judge "is not following the rules of federal law in or on [his] legal case." Because the subject judge has repeatedly denied the various motions that complainant filed in the underlying case, the complainant contends that he is "clearly being bias (sic) in his acts of ruling always for the defendants." This is the ninth misconduct complaint filed by the complainant in the last three years.

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).

This gravamen of this misconduct complaint is the complainant's dissatisfaction with the rulings made by the subject judge in the underlying proceedings. Such rulings are not the proper subject of a complaint of judicial misconduct. *See* Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings. 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. And the complainant may not avoid this stricture by attributing the adverse rulings to the subject judge's bias without some independent evidence thereof. Thus, even if the complainant was not using his bias allegations 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. *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: January 9, 2019