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

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In re:	*
Complaint of Judicial Misconduct	*No. 06-18-90093
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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 is focused on the subject judge's dismissal of an action under 42 U.S.C. § 1983 in which the complainant attempted to challenge the events surrounding his 1995 criminal conviction. The subject judge dismissed that action as untimely.[1]

After conducting an initial review, the chief judge may dismiss a 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 and does not indicate a mental or physical disability resulting in inability to discharge the duties of judicial office"; (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.

Complainant does nothing more than challenge the subject judge's dismissal of the underlying case. Such matters 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. Although an allegation that a specific ruling was the result of an improper motive is cognizable despite its relation to the merits, complainant does not so much as attempt to attribute the dismissal to an improper motive. His complaint is therefore subject to dismissal as directly related to the merits of the named judge's decisions 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.

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[1] It should be noted that the complainant cites the wrong case number in his complaint. The case he cites involved the same underlying claims as the one dismissed by the judge named in this complaint but was filed later in time and dismissed on res judicata grounds by a different judge.

Accordingly, it is **ORDERED** that the complaint be dismissed 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.

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

Date: February 6, 2019