

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

In re:
Complaint of Judicial Misconduct

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*No. 06-18-90111
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [REDACTED] ("complainant"), a federal prisoner, against the Honorable [REDACTED] ("subject judge"). The complaint contends that the subject judge committed misconduct by holding several hearings in the complainant's then-pending criminal proceedings after this circuit's judicial council had issued an order requiring that the subject judge's pending cases be transferred to other judges in the district pending the council's further investigation of a pending disciplinary matter.

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.

This circuit's Judicial Council did issue an order on February 22, 2016, that required, among other things, the transfer of the subject judge's pending caseload. The subject judge sought timely review, and the Committee on Judicial Conduct and Disability of the Judicial Conference of the United States vacated that part of the order that provided for the transfer of pending cases. Because that part of the Sixth Circuit Judicial Council's order that required transfer of cases never took effect, the complainant cannot show that the subject judge's actions in pending cases constituted misconduct under the 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)(2) and Rule 11(c)(1)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: June 4, 2019