

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

In re:  
Complaint of Judicial Misconduct

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\*No. 06-18-90117  
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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 arises from an employment discrimination action that the complainant filed against the Ohio State University. The complainant alleged that the subject judge refused to rule upon a motion for access to a defendant’s computer hard drive and quashed several subpoenas filed by his lawyer. The complainant seeks to avoid the prohibition against using the judicial complaint process to challenge merits rulings in underlying proceedings, see Rule 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings, by alleging that the subject judge was employed by the University as a part-time professor of law at the time she was assigned to the underlying case and that the challenged rulings and/or failures to rule were motivated by her desire to protect her employer. This matter was referred to the undersigned pursuant to 28 U.S.C. § 351(c).

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.

Under the Rules for Judicial-Conduct and Judicial-Disability Proceedings, “allegations directly related to the merits of a decision or procedural ruling” are excluded from the Rules’ definition of misconduct. See Rule 3(h)(3)(A), commentary. An allegation that a specific ruling was the result of an improper motive, however, is cognizable despite its relation to the merits. In her response to the complaint, the subject judge explains that

she was offered the adjunct professorship in the middle of the case and recused herself before she assumed her duties with the defendant university. The record supports her assertion. And the complainant's underlying allegations, in any event, are not supported or are refuted by the record: there is no evidence that the subject judge quashed any subpoenas, and the issues surrounding the complainant's motion for access to the hard drive were being actively litigated at the time the subject judge recused.

Because the record belies the complainant's factual allegations, this complaint of judicial misconduct must be dismissed as lacking any factual foundation pursuant to 28 U.S.C. § 352(b)(1)(B) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

For these reasons, it is **ORDERED** that the complaint be dismissed pursuant to 28 U.S.C. § 352(b)(1)(B) and Rule 11(c)(1)(G) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Entered as Chief Judge  
Pursuant to 28 U.S.C. § 351(c)

*/s/ Karen Nelson Moore*

Date: April 23, 2021