

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

In re:
Complaint of Judicial Misconduct

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*Nos. 06-18-90119/120/
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by Rudolph Alexander, Jr., (“complainant”) against the Honorable Danny J. Boggs, United States Circuit Judge for the Sixth Circuit, the Honorable Raymond M. Kethledge, United States Circuit Judge for the Sixth Circuit, and the Honorable Curtis L. Collier, United States District Judge for the Eastern District of Tennessee (“subject judges”), pursuant to 28 U.S.C. § 351. The subject judges sat on a panel that affirmed a district court’s denial of relief in an employment discrimination action that the complainant filed against the Ohio State University. The complaint challenges the subject judges’ decision on appeal, charging that they misinterpreted or ignored evidence and arguments, applied incorrect legal standards, and arrived at an incorrect result. The complainant concludes that the subject judges were “protecting” the district court judge, whom he also named in a separate complaint. 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.

The gravamen of this complaint is the complainant’s dissatisfaction with the ruling on appeal in his employment discrimination case. Under the Rules for Judicial-Conduct and Judicial-Disability Proceedings, “allegations directly related to the merits of a decision or procedural ruling” 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, commentary. 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. Although an allegation that specific rulings were the result of improper motives may be cognizable, the complainant's bald assertion that the subject judges were "protecting" the district court is wholly unsupported by any evidence. Even if the complainant were not using this allegation as a transparent attempt to bootstrap his impermissible merits challenges, the allegation would be independently dismissed as frivolous, as it is belied by the evidence. See 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), 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)(A)(ii) & (iii) and Rule 11(c)(1)(B) & (C) 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