

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

In re:
Complaint of Judicial Misconduct

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*No. 06-18-90124
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by **[REDACTED]** (“complainants”) against the Honorable **[REDACTED]** (“subject judge”), pursuant to 28 U.S.C. § 351. The complaint criticizes the subject judge’s orders compelling arbitration, confirming the resulting arbitration award, and granting in part a motion for an order of contempt. The complaint also alleges bias on the part of the subject judge.

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).

An initial review of the record reveals that one of the complainants filed a civil action that was assigned to the subject judge. The defendant moved to dismiss and to compel arbitration, and the subject judge granted the motion. Later, the defendant moved for an order confirming the resulting arbitration award, as well as a protective order that was entered in the arbitration. The subject judge granted that motion as well. Finally, the defendant moved for an order of contempt in relation to alleged violations of the protective order, and the subject judge granted the motion in part.

This judicial-misconduct complaint is based primarily on perceived errors in the subject judge’s orders. To that extent, it is subject to dismissal under Rule 11(c)(1)(B) as directly related to the merits of those orders. See *also* 28 U.S.C. § 352(b)(1)(A)(ii). Any challenge to the merits of a judge’s rulings is outside the scope of judicial-misconduct proceedings. See Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The Judicial Council is not a court and has no jurisdiction to

review any decision by a judge. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331, 331-32 (6th Cir. 1988).

To the extent that the complaint is based on alleged bias, it is subject to dismissal under Rule 11(c)(1)(C) because the allegation is entirely unsupported by the record. See *also* 28 U.S.C. § 352(b)(1)(A)(iii).

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: July 25, 2019