

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

In re:
Complaint of Judicial Misconduct

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*No. 06-19-90024
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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 alleges that the subject judge’s law license is inactive and that the judge has ruled against the complainant in civil litigation. The complaint also contains very general allegations that the subject judge has endangered the complainant and committed “blatant acts of discrimination, incompetence, negligence, and carelessness.”

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 in 2004 and 2005 the complainant filed a series of civil actions involving the same subject matter. The subject judge dismissed the fifth such action sua sponte and imposed filing restrictions on the complainant. The complainant soon sought leave to file a sixth action, and the subject judge struck her motions as non-compliant with the filing restrictions.

To the extent that this judicial-misconduct complaint alleges that the subject judge’s law license is inactive, the complaint is subject to dismissal under Rule 11(c)(1)(A). “[T]he licensing and regulation of lawyers” is a matter of state law, *Leis v. Flynt*, 439 U.S. 438, 442 (1979), and Ohio law allows the holder of an inactive law license to work as a federal judge, see Ohio S. Ct. R. for the Gov’t of the Bar VI, § 5(B). The claimed conduct thus does not constitute misconduct.

To the extent that the complaint challenges the subject judge's rulings against the complainant, it is subject to dismissal under Rule 11(c)(1)(B). 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).

Finally, to the extent that the complaint alleges that the subject judge endangered the complainant and committed other "blatant," but unidentified, acts of misconduct, it is subject to dismissal under Rule 11(c)(1)(C) & (D). See also 28 U.S.C. § 352(b)(1)(A)(iii). Those allegations are not supported by any specific facts or evidence in the record.

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)(A), (B), (C) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: January 16, 2020