

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

In re:
Complaint of Judicial Misconduct

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*No. 06-19-90040
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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 conspired with a court clerk to prevent the complainant from testifying before a grand jury.

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 the complainant sent an “application to testify before the grand jury” to a federal district court clerk’s office and asked that it be forwarded to a county grand jury foreman. The clerk’s office docketed the matter and issued a deficiency notice. The case was assigned to the subject judge, who (after the filing of this misconduct complaint) dismissed it as nonjusticiable.

The complaint alleges that the subject judge, acting in concert with a court clerk, willfully misconstrued the complainant’s “application to testify before the grand jury” as a civil action in order to cover up wrongdoing by state officials. These allegations are not supported by any specific facts or evidence in the record. In particular, nothing in the record suggests that the subject judge directed the docketing of the complainant’s application, and the allegation of a cover-up is entirely speculative. The complaint is thus subject to dismissal under Rule 11(c)(1)(C). 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)(iii) and Rule 11(c)(1)(C) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: February 18, 2020