

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

In re:
Complaint of Judicial Misconduct

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*Nos. 06-19-90058/59
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [REDACTED] (“complainant”) against the Honorable [REDACTED] (“subject judges”), pursuant to 28 U.S.C. § 351. The complaint alleges that the subject judges discriminated against the complainant, as an indigent person, by dismissing a civil action in which he had demanded a jury trial.

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 filed a civil action that was assigned to the subject district judge and referred to the subject magistrate judge for pretrial proceedings. The complainant also filed a motion to proceed in forma pauperis (“IFP”). The subject magistrate judge directed the complainant to file a properly completed IFP motion and supporting affidavit. The complainant then filed a new IFP motion, but the subject district judge found it inadequate, denied leave to proceed IFP, and dismissed the action without prejudice.

To the extent that this misconduct complaint challenges the subject judges’ rulings, 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).

The allegations of discrimination are subject to dismissal under Rule 11(c)(1)(C) & (D). See also 28 U.S.C. § 352(b)(1)(A)(iii). These allegations are entirely unsupported by the record, which establishes that the subject judges' actions were motivated not by the complainant's indigency, but by his failure to file a proper IFP motion.

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) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: August 19, 2020