

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

In re:
Complaint of Judicial Misconduct

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*No. 06-19-90081
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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 subject judge tried, convicted, and sentenced the complainant for a number of related crimes involving the assault of a Native American woman that occurred on an Indian reservation. The complaint alleges that the subject judge “displayed flagrant, prejudicial, and bias [sic] rulings that were concealed using stealthy interpretations of law.” The complainant attributes these adverse rulings to the subject judge’s desire “to appease a wealthy and influential Native American Tribe within his . . . district.” He also charges that the subject judge “pretend[ed] to be unaware of the behavior of [the] AUSA . . . and how he engages in nefarious, illegal, and unprofessional acts.”

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 complainant is simply attempting to challenge rulings made by the subject judge below. This he may not do: such decisions 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. The Judicial Council is not a court and has no jurisdiction to review the named judge’s rulings or to grant relief requested in the underlying case. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). Although an allegation that a specific ruling was the result of an improper motive is cognizable despite its relation to the merits, the complainant’s allegation that the adverse rulings were motivated by the subject judge’s desire to “to appease a wealthy and influential Native American Tribe” is wholly unsupported by any evidence, and is thus due to be dismissed under 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. Plaintiff may not survive Rule 11(c)(1)(C) dismissal by simply alleging an unsupported, improper motive. His allegation is a thinly disguised challenge

to the merits, and as such is dismissed 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.

Accordingly, it is **ORDERED** that the complaint be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii), (iii) & (b)(1)(B) and Rule 11(c)(1)(B), (C) & (G) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: October 30, 2020