

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

In re:
Complaint of Judicial Misconduct

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*No. 06-19-90083
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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, after the jury returned a guilty verdict in his criminal trial, the presiding subject judge “changed [his] charges by superseeding [sic] the indictment and sealing it.”

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.

A preliminary examination of the record shows that a superceding indictment, which was docketed under seal, was issued well before the commencement of trial, and that the complainant was re-arraigned accordingly. No superceding indictment was entered thereafter. Even were that allegation not merits related and thus sufficient to state actionable misconduct on the part of the subject judge, it is belied by the record. Because the complaint thus fails to allege that the subject judge has engaged in any conduct prejudicial to the effective and expeditious administration of the business of the courts, it is appropriately denied under 28 U.S.C. § 352(b)(1)(A)(i) and Rule 11(c)(1)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

For these reasons, it is **ORDERED** that the complaint will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(i) and Rule 11(c)(1)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

Date: November 13, 2020