

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

In re:
Complaint of Judicial Misconduct

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*Nos. 06-19-
*90086/87/88/89
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [REDACTED] (“complainant”) against the Honorable [REDACTED] and the Honorable [REDACTED], and the Honorable [REDACTED] and the Honorable [REDACTED], (“subject judges”), pursuant to 28 U.S.C. § 351. The complaint alleges that the subject judges failed to take the complainant’s civil actions seriously, acted with bias and prejudice, and deprived her of due process by not allowing her cases to be heard by a jury.

After conducting an initial review, the chief judge may dismiss a complaint of judicial misconduct 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 2012, the complainant filed a pro se civil action that was assigned to one of the subject judges. The judge appointed pro bono counsel to assist the complainant, but he later granted the complainant’s motion to terminate counsel’s participation. The defendant moved to dismiss the action, and the judge granted the motion. On appeal, a panel that included two of the subject judges affirmed the dismissal. In 2018, the complainant filed another pro se civil action, which asserted the same claims against the same defendant as well as new claims against new defendants. This action was assigned to another one of the subject judges. Two defendants moved to dismiss the action. The judge granted their motions and dismissed the remaining claims sua sponte.

To the extent that this misconduct complaint challenges the subject judges' decisions to dismiss the complainant's civil actions before trial and to affirm the dismissal of her 2012 action, 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 4(b)(1), 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 complaint's allegations that the subject judges did not take the complainant's cases seriously, and that they were motivated by bias and prejudice, are subject to dismissal under Rule 11(c)(1)(C). See also 28 U.S.C. § 352(b)(1)(A)(iii). The record contains no evidence that supports these allegations.

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

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

Date: November 13, 2020