

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

In re:
Complaint of Judicial Misconduct

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*No. 06-19-90115
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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 the government to suppress and cover up evidence relating to the complainant’s criminal prosecution.

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 the complainant’s criminal proceeding was assigned to the subject judge. A jury found the complainant guilty of multiple drug, money-laundering, and health-care-fraud offenses, and the subject judge sentenced him to 180 months of imprisonment. The complainant filed a post-judgment motion for the return of evidence that had been collected from his office and residence, and the subject judge denied the motion.

This misconduct complaint alleges broadly that the subject judge conspired with the government to suppress and cover up evidence. But those allegations are based solely on the judge’s denial of the complainant’s post-judgment motion for the return of evidence, as well as the judge’s sustaining of an objection to certain testimony at trial. To the extent that the complaint alleges that the subject judge erred in those 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 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).

To the extent that the complaint alleges that the subject judge's actions had an improper ulterior motive, it is subject to dismissal under Rule 11(c)(1)(C). See also 28 U.S.C. § 352(b)(1)(A)(iii). Any such allegations are entirely unsupported by the record.

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