

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

In re:
Complaint of Judicial Misconduct

*
*
*Nos. 06-20-90001/2
*
*
*
*

MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [REDACTED] (“complainant”) against the Honorable [REDACTED] (“subject judge 1”), and the Honorable [REDACTED] (“subject judge 2”), pursuant to 28 U.S.C. § 351. The complainant argues that subject judge 1 demonstrated bias by ruling against him in an underlying civil action, and subject judge 2 “put his stamp of approval” on those biased rulings.

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.

Although the complainant attempts to cloak his allegations in the guise of bias, he presents no evidence of bias other than the adverse rulings. His claims of bias on the part of subject judge 1, and his dependent claim that subject judge 2 supported these allegedly biased rulings, are wholly unsupported by any evidence, and are 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. It is apparent that the fulcrum of this complaint is the complainant’s dissatisfaction with the rulings made by the subject judges in the proceedings below, and the ultimate outcome of those proceedings. Challenges to the merits of a judge’s rulings in underlying proceedings, including rulings of motions to recuse, are outside the scope of judicial-misconduct proceedings. See Rule 3(h)(3)(A), Rule 11(c)(1)(B), Rules for Judicial-Conduct and

Judicial-Disability Proceedings. A complainant may not avoid dismissal by simply alleging an improper motive without any supporting evidence. His complaint thus also fails under 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) 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