

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

In re:
Complaint of Judicial Misconduct

*
*
*No. 06-20-90006
*
*
*
*

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 improperly ordered two competency evaluations in the complainant’s criminal proceeding, improperly allowed complainant’s counsel to waive his speedy-trial rights, and imposed an illegal sentence.

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 case was assigned to the subject judge. The complainant’s counsel filed a motion for a pre-plea presentence report and waiver of speedy-trial rights, which the subject judge granted. Counsel also moved for a competency evaluation. The subject judge granted the motion and, after the evaluation and a hearing, found the complainant not competent to stand trial. The subject judge referred the complainant for further evaluation and treatment, then found the complainant competent several months later. The complainant entered a guilty plea, and the subject judge imposed a sentence of 180 months of imprisonment.

This misconduct complaint is subject to dismissal under Rule 11(c)(1)(B) because it is directly related to the merits of the subject judge’s decisions to accept the complainant’s waiver of speedy-trial rights, to order two competency evaluations, and to

impose a 180-month sentence. 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).

Accordingly, it is **ORDERED** that the complaint be 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.

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

Date: November 13, 2020