

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

In re:
Complaints of Judicial Misconduct

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*Nos. 06-20-
*90014/15/16
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MEMORANDUM AND ORDER

These complaints of judicial misconduct were filed by **[REDACTED]** (“complainant”) against the Honorable **[REDACTED]** (“subject judges”), pursuant to 28 U.S.C. § 351. The complaints allege that the subject judges accepted payment to assist the defendants in civil actions that the complainant filed.

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 filed a civil action that was assigned to one of the subject judges. The judge dismissed the action after the complainant failed to respond to the defendant’s motion to dismiss and to the judge’s order to show cause why that motion should not be granted. The complainant filed another civil action, which was assigned to the other two subject judges (one of whom was a magistrate judge at the time). The magistrate judge recommended that the defendant’s motion to dismiss be granted, and the district judge adopted that recommendation and dismissed the case.

To the extent that they challenge the merits of the subject judges’ decisions, these misconduct complaints are 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).

Aside from the fact that the subject judges dismissed (or recommended dismissing) his civil actions, the complaints point to no evidence that the subject judges disfavored him or favored the defendants in any way. And the record contains no evidence whatsoever that the subject judges assisted the defendants, much less that they accepted payment for doing so. The complaints are thus subject to dismissal as frivolous under Rule 11(c)(1)(C). See *also* 28 U.S.C. § 352(b)(1)(A)(iii).

Accordingly, it is **ORDERED** that the complaints 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