

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

In re:
Complaint of Judicial Misconduct

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*Nos. 06-20-90019/20
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [REDACTED] (“complainant”) against the Honorable [REDACTED] (“subject judges”), pursuant to 28 U.S.C. § 351. The complaint alleges that the subject judges have retaliated and discriminated against the complainant. The complaint also alleges that the subject magistrate judge is a member of organizations that practice invidious discrimination.

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).

The record reveals that the complainant filed a civil action that was assigned to the subject district judge and referred to the subject magistrate judge. The magistrate judge recommended that the action be dismissed, and the district judge adopted that recommendation and dismissed the case. The complainant continued to file numerous motions, amendments, and supplements in the district court, and the subject district judge eventually entered an order imposing prefiling restrictions on the complainant.

This judicial-conduct complaint does not explain how or why the subject district judge allegedly retaliated and discriminated against the complainant. To the extent that the allegations of retaliation and discrimination are based on the subject judges’ rulings in the complainant’s civil action, the complaint is subject to dismissal under Rule 11(c)(1)(B) as merits-related. See *also* 28 U.S.C. § 352(b)(1) (A)(ii). Any challenge that directly relates to the merits of judges’ rulings is outside the scope of judicial-conduct

proceedings. See Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The complainant apparently attributes the alleged discrimination of the subject magistrate judge to the judge's membership in organizations that—so says the complaint—“practice invidious race, ethnic and religious discrimination against Blacks, Jews, and non-Catholics.” The organizations in question are the National Italian-American Bar Association, the Italian-American Bar Association of Michigan, and the Catholic Lawyers Guild. The complaint includes evidence that the subject magistrate judge belongs to those organizations, but it does not include any evidence that the organizations practice invidious discrimination. This portion of the complaint is thus subject to dismissal under Rule 11(c)(1)(D) as lacking sufficient evidence to raise an inference that misconduct has occurred. See *also* 28 U.S.C. § 352(b)(1)(A)(iii).

For these reasons, 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) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

/s/ Jeffrey S. Sutton
Chief Judge

Date: June 3, 2021