

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

In re:
Complaint of Judicial Misconduct

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* No. 06-22-90044
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [REDACTED] [REDACTED] (“complainant”) against the Honorable [REDACTED] [REDACTED] (“subject judge”), pursuant to 28 U.S.C. § 351. The complainant asserts the subject judge engaged in judicial misconduct during complainant’s sentencing hearing in his underlying criminal case. Specifically, the complainant points to specific comments the subject judge made to the victim’s mother as evidence of improper motive in determining his sentence. Notably, complainant raised this same argument in his appeal to the United States Court of Appeals for the Sixth Circuit which ruled that the subject judge’s isolated statements were permissible and in no way affected complainant’s 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).

In this case, the complainant attempts to challenge the sentence imposed by the subject judge below and affirmed by the Court of Appeals. The judicial complaint process may not be used to challenge the merits of judicial rulings made in underlying proceedings; such decisions are not the proper subject of a complaint of judicial misconduct. See Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The Judicial Council is not a court and has no jurisdiction to review the subject judge’s rulings or to grant relief requested in the underlying case. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). This complaint is therefore subject to dismissal as directly related to the merits of the subject judge’s

decisions in the underlying proceedings, 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.

Moreover, a review of the record shows complainant's allegations are wholly unsupported. The complainant points to no evidence that the subject judge acted in a retaliatory manner or engaged in any conspiracy against the complainant. The record contains no evidence whatsoever to support complainant's allegations. The complaint is 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 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/ Jeffrey S. Sutton
Chief Judge

Date: October 18, 2022