

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

In re:  
Complaint of Judicial Misconduct

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\* No. 06-23-90001  
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**MEMORANDUM AND ORDER**

This complaint of judicial misconduct was filed by [REDACTED] (“complainant”) against [REDACTED] (“subject judge”), pursuant to 28 U.S.C. § 351. The complainant generally asserts the subject judge improperly decided a complaint of judicial misconduct complainant had previously filed based on the complainant’s race.

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 judicial complaint process may not be used to challenge the merits or correctness of judicial rulings made in underlying proceedings; such decisions are not the proper subject of a complaint of judicial misconduct. See Rule 4(b)(1), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The Commentary to Rule 4 specifically provides that “a complaint challenging the correctness of a chief judge’s determination to dismiss a prior misconduct complaint would be properly dismissed as merits-related – in other words, as challenging the substance of the judge’s administrative determination to dismiss the complaint – even though it does not concern the judge’s rulings in Article III litigation.” 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 racially-motivated or discriminatory manner, and 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)-(iii) and Rule 11(c)(1)(B)-(C) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

*/s/ Karen Nelson Moore*  
Circuit Judge

Date: February 3, 2023