JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:	*	
	*	
Complaint of Judicial Misconduct	*	06-25-90001
	*	
	*	
	*	
	*	

MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [redacted] ("complainant") against [redacted] ("subject judge"), under 28 U.S.C. § 351. The complainant alleges that the subject judge intentionally provided incorrect sentencing information to Bureau of Prisons, causing errors in the computation of his prison 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." Rules 11(c)(1)(A)–(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings ("Judicial-Conduct Rules"); *see* 28 U.S.C. § 352(a), (b).

The subject judge presided over the complainant's criminal case. During sentencing, the parties disagreed about whether the complainant should be designated an "armed career criminal." The subject judge ruled that the complainant was not an armed career criminal and sentenced him accordingly.

The misconduct complaint claims that the subject judge deliberately falsified a sentencing computation form sent to the Bureau of Prisons by indicating that the complainant was an armed career criminal and improperly calculating his time-served credit. According to the complainant, this resulted in an incorrectly calculated sentence.

I note at the outset that, "[a]fter a district court sentences a federal offender, the Attorney General, through the [Bureau of Prisons], has the responsibility for administering the sentence." *United States v. Wilson*, 503 U.S. 329, 335 (1992). "[T]he power to grant

credit for time served lies solely with the Attorney General and the Bureau of Prisons," and not with the district court. *United States v. Crozier*, 259 F.3d 503, 520 (6th Cir. 2001).

To the extent this complaint challenges the subject judge's sentencing calculations or information she transmitted to the Bureau of Prisons, it warrants dismissal. The judicial-complaint process may not be used to challenge the merits of judicial decisions made in underlying proceedings; such decisions are not the proper subject of a complaint of judicial misconduct. *See* Judicial-Conduct Rule 4(b)(1). 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 allegation is therefore subject to dismissal as directly related to the merits of the subject judge's decisions. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

To the extent the complaint alleges that the subject judge deliberately "falsified" or "fabricated" information about the complainant's criminal history, it is also subject to dismissal. The complainant has offered no evidence to support his claim that the subject judge acted with a discriminatory motive, or that she intended to "den[y]" his "proper sentence." This allegation therefore warrants dismissal as lacking sufficient evidence to raise an inference of misconduct. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Accordingly, it is **ORDERED** that the complaint be dismissed under 28 U.S.C. § 352(b)(1)(A)(ii)–(iii) and Judicial-Conduct Rules 11(c)(1)(B) and (D).

/s/ Jeffrey S. Sutton
Chief Judge

Date: March 28, 2025