JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:	*	
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Complaint of Judicial Misconduct	*	06-25-90010
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [redacted] ("complainant") against [redacted] ("subject judge"), under 28 U.S.C. § 351. The complaint challenges the subject judge's statements and rulings in two underlying cases.

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 in two cases filed by the complainant, a pro se litigant. In the first case, the subject judge noted that the complainant had been placed on "restricted filer" status in a previous case because of his "propensity for repeatedly filing frivolous pleadings."

In the second case, the subject judge noted the complainant's "long history of wasting th[e] Court's limited time and resources by filing meritless motions and lawsuits." In a later order, the subject judge set a schedule that gave the defendant "45 days to file a motion to dismiss." And at a later settlement conference, the subject judge stated that he was "not terribly optimistic . . . that we're going to reach a resolution, but I need to make the effort. [The district judge] obviously wants me to do this and I'm happy to do it, but I also want to be realistic."

This misconduct complaint alleges that the subject judge's actions constitute harassment and demonstrate pattern of unfairness. It also contends that the subject judge "advocated" for the defendant "when he sua sponte issued an order asking" the defendant to move to dismiss the case. And a supplemental filing alleges that the subject judge's statements at the settlement conference "showed bias."

To the extent that this complaint challenges the subject judge's rulings in the underlying cases, 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 cases. *See In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). These allegations are subject to dismissal as directly related to the merits of the subject judge's judicial decisions. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

To the extent that the complaint accuses the subject judge of bias and harassment, it also warrants dismissal. Although the judicial-complaint process may not be used to challenge the merits of a judge's ruling, an allegation that a decision is "the result of an improper motive" can constitute cognizable misconduct. *See* Judicial-Conduct Rule 4(b)(1).

The complainant's cited statements and rulings do not suggest that the subject judge engaged in bias or harassment. The subject judge made accurate statements about the complainant's history with the court. And he simply conveyed his "realistic" view of the possibility of a resolution at the outset of the parties' settlement conference. These statements are insufficient to raise an inference of bias or harassment, and the complaint is therefore subject to dismissal. *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: April 11, 2025