# JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

**MICHIGAN-OHIO-KENTUCKY-TENNESSEE**

| | | |
|---|---|---|
| In re: | * | |
| | * | |
| Complaints of Judicial Misconduct | * | 06-25-90031 |
| | * | 06-25-90032 |
| | * | 06-25-90033 |
| | * | |
| | * | |
| | * | |

## MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [redacted] ("complainant") against [redacted] ("subject judges"), under 28 U.S.C. § 351. The complaint also contains allegations against an employee of the Sixth Circuit's clerk's office.

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 judges were members of a panel that denied the complainant's motion for authorization to file a second or successive habeas petition. This misconduct complaint challenges that ruling. It also alleges that an employee of the Sixth Circuit clerk's office "threatened" the complainant and wrongly refused to docket his motion for reconsideration.

This complaint warrants dismissal. The allegations against the subject judges challenge the merits of their decision to deny complainant's motion. 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 judges' rulings or to grant relief requested in the underlying case. *See In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). These allegations warrant dismissal because they are merits-related. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

Additionally, the allegations against the clerk's office employee are not cognizable in this proceeding. The Judicial Conduct and Disability Act authorizes complaints against judges. *See* 28 U.S.C. § 351(a). "The conduct of the clerk is not subject to review through a judicial misconduct complaint." *See In re Complaint*, No. 05-6-351-65 (6th Cir. C.J. Apr. 24, 2006). These allegations are thus dismissed as outside the scope of the Act. *See* 28 U.S.C. § 352(b)(1)(A)(i).

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

*/s/ Jeffrey S. Sutton*
Chief Judge

Date: June 27, 2025