JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:	*	
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Complaints of Judicial Misconduct	*	06-25-90081-82
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MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [redacted] ("complainant") against [redacted] ("subject judge 1"), and [redacted] ("subject judge 2"), under 28 U.S.C. § 351.

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 complainant, represented by counsel, sued her former employer over various employment discrimination claims. Subject judge 1 presides over that case and several related cases brought by the same attorney. He referred certain pretrial matters to subject judge 2. The parties have been in active litigation for over two years and the proceedings have been marked by contentious discovery disputes.

Several months ago, the complainant moved for the subject judges' recusal under 28 U.S.C. § 455. In support, she claimed that subject judge 2's decisions show partiality in favor of the employer. And she claimed that subject judge 1 is biased because his father, who has been deceased for nearly 15 years, was once a senior executive at a venture involving the employer. Shortly after filing the recusal motion, the complainant petitioned for a writ of mandamus to secure subject judge 1's recusal. The subject judge

has not ruled on the recusal motion but has stayed the complainant's case pending the Sixth Circuit's resolution of the mandamus petition.

The complainant has also filed this misconduct complaint, seemingly without the assistance of the attorney who is representing her in the underlying litigation. The misconduct complaint alleges that the subject judges have exhibited bias by issuing adverse rulings against the complainant on discovery issues without applying similar scrutiny to the employer. It also alleges that subject judge 1 is biased because subject judge 1's father was a former executive at one of the employer's related companies.

This complaint is subject to dismissal. Many of the complaint's claims stem from disagreement with the subject judges' discovery rulings in the underlying case. The judicial-complaint process may not be used to challenge the merits of those decisions; they 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). To the extent the allegations challenge the merits of the subject judges' decisions, they warrant dismissal. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

The complaint's general allegations of bias are also dismissed. 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 primary basis for the accusations of bias are the subject judges' rulings. But "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion." *Liteky v. United States*, 510 U.S. 540, 555 (1994). And nothing in the complaint suggests that this is one of "the rarest circumstances" in which judicial rulings "evidence the degree of favoritism or antagonism required . . . when no extrajudicial source is involved." *Id.* These allegations are thus insufficient to raise an inference that misconduct has occurred. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Further, the claim that subject judge 1's family connection to the employer prevents his neutrality is also subject to dismissal. The complainant has sought the subject judge's recusal on this basis and the issue remains under review in both the district court and in the Sixth Circuit.

"[A]n allegation that calls into question the correctness of a judge's . . . failure to recuse" does not constitute cognizable misconduct. Judicial-Conduct Rule 4(b)(1). Such a challenge is cognizable in this proceeding only if it is "alleged to be the result of an improper motive." *Id.* The ordinary judicial process is otherwise equipped to handle recusal disputes. *See In re Aetna Cas. & Sur. Co.*, 919 F.2d 1136, 1143 (6th Cir. 1990) (en banc) (noting the availability of mandamus review "under circumstances involving alleged conflict of interest and/or appearance of impropriety under § 455").

Here, the complaint identifies no evidence to suggest that subject judge 1 harbors an improper motive. She instead alleges, with respect to his late father's former position, that "[e]ven if the Judge doesn't mean to be biased, it really feels like he is, especially when [the employer] seems to get away with everything, no matter what they do." This allegation is therefore dismissed as related to the merits of subject judge 2's recusal decision and lacking sufficient evidence to infer that misconduct has occurred. *See* 28 U.S.C. § 352(b)(1)(A)(ii)–(iii); Judicial-Conduct Rules 11(c)(1)(B), (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: August 8, 2025