JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re: Complaint of Judicial Misconduct	* * * * * * *	06-25-90090

MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [redacted] ("complainant") against [redacted] ("subject judge"), 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).

This is the second misconduct complaint that the complainant has filed against the subject judge. The first complaint ended in dismissal as lacking sufficient evidence to raise an inference that misconduct had occurred.

The subject judge presides over a lawsuit in which the complainant, a former attorney, is an interested party. Although the misconduct complaint references the subject judge's behavior in multiple proceedings, the focus of the complaint is one civil suit that was initiated in 2020. This lawsuit was also the subject of the first misconduct complaint.

The current misconduct complaint alleges that the subject judge engaged in a host of misconduct. The complaint says that the subject judge improperly denied an attorney's motion for pro hac vice; delayed rulings to pressure the parties to settle; forced a settlement agreement upon the parties; failed to finalize rulings in cases to prevent them from being appealed or collected upon; mishandled the discovery process; improperly excluded relevant testimony; forced the parties to dismiss a case; ordered the parties to

turn over privileged emails; and refused to set the case for trial. The complaint further alleges that the subject judge has exhibited bias in favor of the opposing party.

Merits Challenges. Nearly all the misconduct alleged above directly challenges the subject judge's rulings. 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). Any allegations challenging the subject judge's rulings or handling of the litigation process are therefore dismissed as merits-related. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

Improper Motive and Bias. The allegations of bias and improper motive also warrant dismissal. Most of these allegations are rooted in speculation or disagreement with the subject judge's rulings. For example, the complaint alleges that the subject judge delayed a ruling on an expert to "pressure [the plaintiffs] to settle," and that he refuses to set a trial, "[k]nowing a trial would end the matter." This attribution of motive is based not in credible fact, but in disagreement with the subject judge's decisions. And "judicial rulings alone almost never constitute a valid basis for" establishing bias. *Liteky v. United States*, 510 U.S. 540, 555 (1994). The complaint has not shown 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.*

Similarly, the claim that the subject judge remarked that the complainant and a lawyer with whom he is aligned "sound[ed] like two kids on the playground" is insufficient to raise an inference of misconduct. The complaint quotes this remark without any citation to the extensive record, so the context in which this remark was made is unclear. In any event, "judicial remarks . . . that are critical or disapproving of" a party "ordinarily do not support a bias . . . challenge" unless they "reveal such a high degree of favoritism or antagonism as to make fair judgment impossible." *Liteky*, 510 U.S. at 555. The complaint has not cleared that standard.

Because the complaint fails to support its allegations of bias or improper motive with credible evidence, the allegations are dismissed as lacking sufficient evidence 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).

Delays. Any allegations about delays in the underlying case also warrant dismissal. A claim of delay is cognizable in misconduct proceedings only if accompanied by an allegation that a particular decision was deliberately delayed with an improper motive, or that the subject judge has habitually delayed decisions in a significant number of unrelated cases. See Judicial-Conduct Rule 4(b)(2). Conversely, a complaint of delay in a single case may be said to challenge the correctness of the subject judge's official action and is therefore merits-related. See Commentary to Judicial-Conduct Rule 4.

As explained above, the complaint has not presented sufficient evidence to suggest that the subject judge has delayed rulings in the underlying cases with an improper motive. *See In re Charge of Judicial Misconduct*, No. 08-9011, at 6 (2d Cir. C.J. June 26, 2008) (rejecting allegation of delay when the complainant "present[ed] no evidence to support the charge that the Judge was biased against him" aside from "the delay itself"). Nor does it suggest with any specificity that the subject judge has a habit of delaying decisions in other, unrelated cases. Any allegation of delay is thus dismissed as merits-related. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

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: October 23, 2025