JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:	*	
	*	
Complaint of Judicial Misconduct	*	06-25-90100
	*	
	*	
	*	

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).

The subject judge presided over the complainant's underlying pro se civil suit and dismissed the case for failure to state a claim. The complainant then moved for the subject judge's recusal, alleging that her spouse had business relationships that disqualified her from presiding over his case. The subject judge later denied this motion, concluding that the alleged business relationships were too tenuous to require recusal.

After filing the recusal motion in the underlying litigation but before the subject judge had issued her ruling, the complainant filed this misconduct complaint. The misconduct complaint challenges the subject judge's failure to recuse "despite clear financial conflicts involving her spouse's" business ties. It also alleges an "unexplained delay of 68 days" in ruling on the motion to recuse, and that the complainant received "disparate procedural treatment as a pro se litigant."

These allegations warrant dismissal. First, the judicial-complaint process may not be used to challenge the merits of judicial decisions made in underlying proceedings, "including a failure to recuse"; 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). The allegation that the subject judge failed to recuse from the underlying case is therefore dismissed as merits-related. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

Next up is the allegation of delay in ruling on the recusal motion. A claim of delay is cognizable in misconduct proceedings only if accompanied by an allegation that a 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.

The allegation of delay is also dismissed. The complaint identifies no evidence suggesting that the subject judge delayed her ruling with an improper motive, nor does it allege habitual delay in other cases. This allegation, which challenges the correctness of the subject judge's official action, is therefore dismissed as merits-related. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

The complaint's arguments to the contrary do not change things. It alleges that the subject judge violated a local rule requiring decisions within 30 days. As an initial matter, a stray violation of a local procedural rule likely would "not rise to the level of misconduct under the Act." *See* Commentary to Judicial-Conduct Rule 4. Even if it could, the local rule cited by the complaint does not impose any deadlines for judicial rulings. It instead sets deadlines for *responses* to motions. This argument therefore fails.

Finally, the allegation that the subject judge treated the complainant disparately by applying "hypertechnical pleading standards to [his] pro se submissions" will also be dismissed. To the extent this allegation challenges any decisions in the underlying case, it is dismissed as merits-related. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B). To the extent it accuses the subject judge of bias against pro se litigants, it is supported by only conclusory assertions. This allegation is therefore also 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).

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