JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:	*	
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Complaint of Judicial Misconduct	*	06-25-90129
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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.

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." Rule 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 several requests for post-conviction relief filed by the complainant, including a motion for return of property, motion for compassionate release, and several § 2255 petitions. In each, the complainant alleges that the subject judge delayed issuing rulings before ultimately denying the relief sought. The misconduct complaint asserts that the subject judge engaged in a deliberate pattern of delay with an improper motive.

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.

This complaint warrants dismissal. The complainant asserts that the subject judge deliberately delayed ruling on several motions in his underlying case, but he identifies no evidence to support his allegation that the delay was the result of an improper motive. Nor does he point to habitual delays in a significant number of unrelated cases. In the absence of an improper motive, the allegations challenge the merits of the subject judge's actions and are not the proper subject of a judicial misconduct complaint. *See* Judicial-Conduct Rule 4(b)(1). The complaint is therefore subject to dismissal. *See* 28 U.S.C. § 352(b)(1)(A)(ii)–(iii); Judicial-Conduct Rule 11(c)(1)(B), (D).

To the extent, moreover, that the complaint asks that the underlying case be reassigned to another judge, that is not a form of relief available through the complaint process. *In re Complaint of Jud. Misconduct*, 134 F.4th 1265, 1267 (9th Cir. 2025); Digest of Authorities on the Judicial Conduct and Disability Act at 202. While judicial councils may prohibit judges engaged in misconduct from handling cases, 28 U.S.C. §§ 352, 354, they do not have authority to reassign specific cases to other judges, *In re Complaint of Jud. Misconduct*, 134 F.4th at 1267; Digest at 202.

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

/s/ Jeffrey S. Sutton
Chief Judge

Date: February 25, 2026