JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:	*	
	*	
Complaints of Judicial Misconduct	*	06-25-90143
	*	06-25-90144
	*	06-25-90145
	*	
	*	

MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [redacted] ("complainant") against [redacted] ("subject judge 1"), and [redacted] ("subject judge 2"), [redacted] ("subject judge 3"), under 28 U.S.C. § 351.

After conducting an initial review, the chief judge may dismiss a complaint of judicial misconduct as to which she 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). Because the chief circuit judge is a subject of this complaint, the complaint has been referred to the next most senior active circuit judge for review. *See* Rule 24(f), Judicial-Conduct Rules.

The complainant is a pro se litigant and former Ohio prisoner. The complainant filed motions seeking reconsideration of the clerk of court's actions in two separate matters before the court of appeals. In the first, the complainant filed a motion to vacate five years after his certificate of appealability was denied. In the second, the complainant sought reconsideration of the clerk's order denying his request for briefing to be held in abeyance. The three-judge panel that presided over these motions was comprised of subject judges 1 and 2, and [redacted] Subject judge 3 was not involved in these matters.

The misconduct complaint alleges that the subject judges "fabricated facts outside the record on appeal to 'fix' the case." The complainant posits that subject judges falsified these facts to protect a prominent attorney from misconduct allegations.

These complaints warrant dismissal. Starting first with the claims against subject judge 3. Subject judge 3 was not involved in the underlying proceedings. Instead, it seems likely that complainant intended to bring a claim against the third member of the appellate panel but named the wrong subject judge. Because the complainant has provided no credible information to support the allegations against subject judge 3, this portion of the complaint is dismissed as frivolous. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(C).

Next, as to the claims against subject judges 1 and 2, these claims also warrant dismissal. The complainant's allegations regarding fabricated facts and consideration of information outside the record challenge the merits of the subject judges' decisions in the underlying cases. 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 cases. *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).

Finally, claims against the clerk of court will also be dismissed. 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)–(iii) and Judicial-Conduct Rules 11(c)(1)(B)-(C).

/s/ Karen Nelson Moore
Circuit Judge

Date: December 16, 2025