JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:	*	
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Complaint of Judicial Misconduct	*	06-25-90179
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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." 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 criminal case and is currently presiding over his motion to vacate his sentence. This misconduct complaint alleges that, during these proceedings, the subject judge made incorrect rulings, engaged in ex-parte conversations, and demonstrated bias against the complainant.

This complaint warrants dismissal. Start with the allegation of improper ex-parte communications, which appears to focus on statements the subject judge made during a pretrial conference. Although "improper ex parte communications with parties or counsel for one side in a case" may constitute misconduct, *see* Judicial-Conduct Rule 4(a)(1)(C), these statements were not ex parte. They were made on the record and in the presence of counsel for both parties. This allegation is therefore dismissed as lacking sufficient evidence to raise an inference of misconduct. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

The allegation that the subject judge made improper rulings is also subject to dismissal. The complaint cites the subject judge's evidentiary rulings, her failure to recuse, and the denial of a motion for compassionate release. 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). To the extent the complaint challenges the correctness of the subject judge's decisions, these allegations are dismissed as merits-related. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

Finally, the complaint alleges that the subject judge displayed bias in favor of the prosecution. Although the judicial-complaint process may not be used to challenge the merits of a procedural ruling, an allegation that a decision is "the result of an improper motive" can constitute cognizable misconduct. *See* Judicial-Conduct Rule 4(b)(1) and related commentary.

The allegation of bias is also dismissed. In support of this claim, the complaint cites the subject judge's comments during trial proceedings and various judicial rulings. But "judicial rulings alone almost never constitute a valid basis for" establishing bias. *Liteky v. United States*, 510 U.S. 540, 555 (1994). And "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." *Id.* The complaint does not meet these standards. This allegation is therefore also dismissed as lacking sufficient evidence to raise an inference of misconduct. *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: May 11, 2026