# JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

**MICHIGAN-OHIO-KENTUCKY-TENNESSEE**

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| In re: | * | |
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| Complaint of Judicial Misconduct | * | 06-25-90188 |
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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 complainant is an incarcerated pro se litigant who filed a petition for a writ of mandamus to obtain copies of his records from a county jail. The subject judge screened the case under the Prison Litigation Reform Act and dismissed it as frivolous. The subject judge noted, however, that the complainant had "the option of filing a civil rights suit" to assert his claims. The complainant initiated such a suit. That case was assigned to the subject judge and remains pending.

This misconduct complaint challenges the subject judge's ruling in the mandamus action and claims that the subject judge has delayed issuing rulings in the civil rights case. It attributes the delay and errors to bias against incarcerated litigants and retaliation for filing a misconduct complaint against a different judge.

This complaint warrants dismissal. Many of the allegations challenge the correctness of the subject judge's rulings in the underlying cases. The judicial-complaint process may not be used to challenge the merits of judicial decisions or procedural

rulings made in underlying proceedings. *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 cases. *See In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). The portion of the complaint alleging that the subject judge made incorrect judicial rulings is therefore dismissed as merits-related. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

As for the allegation of delay, such claims are 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. 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 has habitually delayed decisions in other cases. And it provides no support for the allegation that the subject judge delayed a decision due to bias against incarcerated litigants or in retaliation for a prior misconduct complaint. This complaint 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).

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: June 30, 2026