



**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

OFFICE OF THE CIRCUIT EXECUTIVE
503 POTTER STEWART UNITED STATES COURTHOUSE
100 EAST FIFTH STREET
CINCINNATI, OHIO 45202-3988

MARC THERIAULT
CIRCUIT EXECUTIVE

TELEPHONE: 513-564-7200
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August 9, 2024

Dennis Philipson
6178 Castletown Way
Alexandria, VA 22310

Re: Complaint of Judicial Misconduct No. 06-23-90121

Dear Mr. Philipson:

Enclosed is a copy of an Order with a Supporting Memorandum signed by the Chief Judge, in which your complaint of judicial misconduct was dismissed.

Pursuant to Rule 18 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, you have the right to file a petition for review of the chief judge's disposition with the Sixth Circuit Judicial Council. If you wish to file a petition for review, your petition must be received in this office within 42 days of the date of the Chief Judge's Order.

Sincerely,

A handwritten signature in dark ink, appearing to read "Marc Theriault", is written over the typed name.

Marc Theriault
Circuit Executive

MT/ab

JUDICIAL COUNCIL OF THE SIXTH CIRCUIT
MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:
Complaint of Judicial Misconduct

No. 06-23-90121

MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by Dennis Phillipson ("complainant") against the Honorable Sheryl H. Lipman, Chief United States District Judge for the Western District of Tennessee ("subject judge"), under 28 U.S.C. § 351. The complainant generally challenges the subject judge's handling of civil litigation to which he is a party.

After conducting an initial review, the chief circuit 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; see 28 U.S.C. § 352(a), (b).

In his initial complaint, the complainant asserts that the subject judge made errors while presiding over his underlying case and demonstrated bias in favor of the opposing party. In a supplement, he further alleges that the subject judge engaged in misconduct by permitting her law clerk, who was formerly employed by the same law firm as counsel for the opposing party, to work on the underlying case.

This complaint is subject to dismissal. The complainant fails to support his allegations of bias and misconduct with credible facts. His claims are merely hypotheticals, saying that "if" the subject judge did certain things, then misconduct "may" have occurred. He cites no evidence that the subject judge actually did those things. Similarly, the allegation that denying a motion to compel and entering a protective order "suggests a conflict of interest and raises the issue of potential abuse of the discovery process" lacks any factual basis. This portion of the complaint is thus subject to dismissal as lacking sufficient evidence to raise an inference that misconduct occurred. See 28

U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

To the extent the complaint challenges the subject judge's decisions in the underlying litigation, it is also subject to dismissal. 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 Rule 4(b)(1), Rules for Judicial-Conduct and Judicial-Disability Proceedings. 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). These claims are therefore subject to dismissal as directly related to the merits of the subject judge's decisions in the underlying proceedings. See 28 U.S.C. § 352(b)(1)(A)(ii); Rules 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Finally, the claim that the subject judge had a conflict of interest in the underlying case because of her law clerk's former employment is also subject to dismissal. A law clerk's former employment does not necessarily create a conflict of interest with the former employer in all future cases. Indeed, the subject judge addressed this in the underlying proceedings, noting that the law clerk's affiliation with the firm in question ceased three years before the lawsuit against the complainant was filed. This claim is thus subject to dismissal as lacking sufficient evidence to raise an inference that misconduct has occurred. See 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

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

/s/ Jeffrey S. Sutton
Chief Judge

Date: August 9, 2024



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CIRCUIT EXECUTIVE

TELEPHONE: 513-564-7200
FAX: 513-564-7210

January 3, 2024

Dennis Philipson
6178 Castletown Way
Alexandria, VA 22310

Re: Complaint of Judicial Misconduct No. 06-23-90121

Dear Mr. Philipson:

This will acknowledge receipt of your complaint of judicial misconduct against United States Chief District Judge Sheryl H. Lipman.

Your complaint has been filed and assigned the above complaint number. Please place this number on all future correspondence.

In accordance with Rule 8(b) of the Rules of Judicial-Conduct and Judicial-Disability Proceedings and Rule 3(a)(2) of the Rules Governing Complaints of Judicial Misconduct or Disability, a copy of the complaint will be sent to Chief Judge Jeffrey S. Sutton.

I will advise you further upon the disposition of this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Marc Theriault", is written over the typed name.

Marc Theriault
Circuit Executive

MT/ab