

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-10-90028

BEFORE
Lynch, Chief Circuit Judge

ORDER

ENTERED: APRIL 6, 2011

Complainant, a pro se litigant, has filed a complaint, under 28 U.S.C. § 351(a), against a district judge in the First Circuit. The complainant alleges that the judge has mishandled the complainant's petition for habeas corpus.

The complainant alleges that the judge failed to enforce the time limitations applicable to habeas corpus proceedings, as prescribed by federal law. The complainant further alleges that the judge miscodified the petition as a civil complaint on the docket, as opposed to identifying it as a habeas petition.

The complaint is without merit. The complainant has offered no facts that demonstrate judicial bias or other wrongdoing. With respect to the applicable time limitations, the reviewed docket demonstrates that the complainant's petition was filed under 28 U.S.C. § 2254, and that the court ordered the respondent to file an answer

within the time allotted by the Rules Governing Section 2254 Cases. The respondent then timely moved for an extension of time in which to file a responsive pleading, which the court allowed. As there is no evidence of bias, the complaint is dismissed as baseless, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rule 11(c)(1)(C).

Regarding the identification of the complainant's cause of action, there is no evidence of error on the docket. Regardless, a clerical error would not alone be suggestive of wrongdoing by the judge. See Boudin, C.C.J., Amended Order, In Re: Complaint No. 406, September 9, 2005, at 3. Accordingly, this claim is dismissed as unsupported, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii), and as not identifying conduct that falls within the proscription of the statute, pursuant to 28 U.S.C. § 352(b)(1)(A)(i). See also Rules of Judicial-Conduct, Rules 11(c)(1)(C) and 11(c)(1)(A), respectively.

Insofar as the complainant disputes the substance of the orders issued in the case, the complaint is also dismissed as not cognizable, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(B).

For the reasons stated, Complaint No. 01-10-90028 is dismissed, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(i), 352(b)(1)(A)(ii), and 352(b)(1)(A)(iii). See also Rules of Judicial-Conduct, Rules 11(c)(1)(A), 11(c)(1)(B), and 11(c)(1)(C).

Date

4/6/11

Chief Judge Lynch

