

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-11-90004

BEFORE
Lynch, Chief Circuit Judge

ORDER

ENTERED: MAY 18, 2011

Complainant has filed a complaint, under 28 U.S.C. § 351(a), against a magistrate judge in the First Circuit. The complainant alleges that the magistrate judge failed to report misconduct, which is unspecified, by defense counsel in the complainant's case.

The complainant alleges that misconduct by defense counsel was brought to the attention of the magistrate judge when the court issued its report and recommendation in the complainant's case. The complainant does not indicate how or in what form this information was presented to the court, but states that the magistrate judge wrongfully failed to notify the appropriate authority of the attorney's "dishonesty, fraud, deceit, misrepresentation, and [prejudicial] conduct"

The misconduct complaint is baseless. The complainant does not identify the alleged impropriety by defense counsel, much less any information about how or when

this alleged wrongdoing was presented to the court. Nor does the record provide any basis for the assertion. There is no indication on the docket of any relevant pleading or submission to this effect.

As there is no evidence in support of the claim that the magistrate failed to report misconduct by defense counsel, the complaint is dismissed as baseless, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). There is no need to reach any further question about whether the allegations would even state a claim of misconduct. In so far as the complaint is based exclusively on the complainant's disagreement with the magistrate judge's recommended ruling, or with any other orders issued in the case, it is dismissed as not cognizable, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rules 11(c)(1)(C) and 11(c)(1)(B), respectively.

For the reasons stated, Complaint No. 01-11-90004 is dismissed, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii), and 352(b)(1)(A)(iii). See also Rules of Judicial-Conduct, Rules 11(c)(1)(B), and 11(c)(1)(C).

5/18/11

Date

Andrea L. Lynch

Chief Judge Lynch