

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-11-90038

BEFORE
Lynch, Chief Circuit Judge

ORDER

ENTERED: DECEMBER 5, 2011

Complainant, a litigant, has filed a complaint, under 28 U.S.C. § 351(a), alleging that a district judge engaged in misconduct while presiding over the complainant's civil case. Complainant alleges only that the judge incorrectly dismissed complainant's case for failing to comply with the applicable statute of limitations. Complainant submits a motion for reconsideration that he filed in the case and contends that his underlying legal claim was filed in a timely manner. Complainant concludes that the judge improperly relied on the statute of limitations in dismissing the case.

The complaint of misconduct is baseless. "Cognizable misconduct . . . does not include . . . an allegation that is directly related to the merits of a decision of procedural ruling. An allegation that calls into question the correctness of a judge's ruling . . . , without more, is merits-related." Rules for Judicial-Conduct and Judicial-Disability

Proceedings (Rules of Judicial-Conduct), Rule 3(h)(3)(A). The present misconduct complaint falls squarely within this Rule.

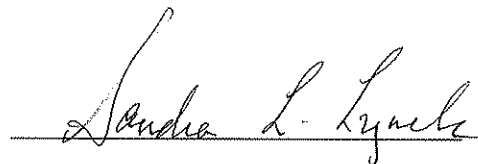
The reviewed record - including the misconduct complaint, as well as the docket, relevant pleadings, court orders, and the transcript of a motion hearing - provides no facts indicative of bias or wrongdoing by the judge. The hearing transcript demonstrates only that the judge engaged in a lengthy discussion with complainant's counsel concerning the relevant facts in light of the governing legal principles, before ruling to allow defendant's motion for summary judgment on the limitations issue. A substantive or procedural court ruling with which complainant disagrees is not misconduct. See Rules of Judicial-Conduct, Rule 3(h)(3)(A).

As there is no evidence of bias or judicial impropriety, the misconduct complaint is dismissed as frivolous, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(C). Insofar as the misconduct complaint merely seeks to challenge the court's decision in the case, it is 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. 01-11-90038 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).

December 5, 2011

Date



Chief Judge Lynch