

JUDICIAL COUNCIL  
OF THE FIRST CIRCUIT

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IN RE  
COMPLAINT NO. 01-16-90008

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BEFORE  
Lynch and Kayatta, Circuit Judges  
Laplante, McConnell and Delgado-Hernández, District Judges

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ORDER

ENTERED: OCTOBER 25, 2016

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Petitioner, a pro se litigant, has filed a petition for review of Chief Judge Howard's order dismissing her complaint, under 28 U.S.C. § 351(a), against a First Circuit district judge. Petitioner alleged that the judge was biased and wrongfully dismissed her civil case. Chief Judge Howard dismissed the complaint as baseless and not cognizable.

In the original complaint, petitioner alleged that the judge was biased in favor of certain defendants in her civil case and acted as the "protector" of these defendants by improperly adopting their factual account and granting their motion to dismiss. Petitioner further asserted that the judge granted a second motion to dismiss filed by other defendants and dismissed the case in its entirety in order to prevent her claims from reaching a jury. Petitioner also argued that the judge's determinations were inconsistent with legal precedent and concluded that the judge "entered into a [c]riminal

[c]onspiracy," in violation of the Code of Conduct for United States Judges (Code of Conduct) and federal law.

Chief Judge Howard dismissed the misconduct complaint as baseless and not cognizable. The Chief Judge's review of the record indicated that the judge issued two orders in which the court thoroughly explained the multiple bases for granting the motions to dismiss. Chief Judge Howard determined that there was no information in the complaint or the reviewed record to support the allegations that the judge was biased or improperly motivated. Therefore, the Chief Judge dismissed the misconduct complaint 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)(D).

Chief Judge Howard further determined that the misconduct complaint was not cognizable because it derived only from petitioner's disagreement with the substance of the court's rulings. Accordingly, the Chief Judge dismissed the complaint as directly related to the merits. See 28 U.S.C. § 352(b)(1)(A)(ii); see also Rules of Judicial-Conduct, Rules 11(c)(1)(B) and 3(h)(3)(A) ("Cognizable misconduct . . . does not include . . . an allegation that is directly related to the merits of a decision or procedural ruling. An allegation that calls into question the correctness of a judge's ruling . . . , without more, is merits-related.").

In the petition for review, petitioner asserts that Chief Judge Howard "mis-interpreted [sic] the facts set forth in [her misconduct c]omplaint." Petitioner reiterates

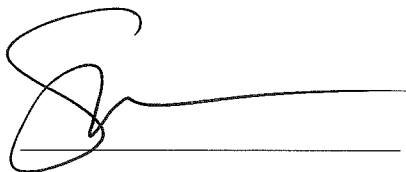
the allegations that the district court judge was biased in favor of certain defendants and accepted their version of the facts to protect them from further litigation. Petitioner also repeats her assertion that the judge's legal rulings contravened established legal precedent.

The petition for review is meritless. Petitioner offers no facts in the petition for review suggesting any wrongdoing by the judge. Chief Judge Howard thoroughly reviewed the record in petitioner's civil case, including the orders allowing the motions to dismiss, and found no evidence of bias or improper motive. Petitioner's allegations simply amount to disagreement with the substance of the court's rulings. Accordingly, the misconduct complaint was appropriately dismissed as not cognizable and baseless. See 28 U.S.C. §§ 352(b)(1)(A)(ii) and 352(b)(1)(A)(iii), respectively. See also Rules of Judicial-Conduct, Rules 11(c)(1)(B) and 11(c)(1)(D).

For the reasons stated herein, the order of dismissal issued in Judicial Misconduct Complaint No. 01-16-90008 is affirmed. See Rules for Judicial-Conduct, Rule 19(b)(1).

10/25/16

Date



Susan Goldberg, Secretary