

JUDICIAL COUNCIL  
OF THE FIRST CIRCUIT

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IN RE  
COMPLAINT NO. 01-16-90008

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BEFORE  
Howard, Chief Circuit Judge

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ORDER

ENTERED: APRIL 26, 2016

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Complainant, a pro se litigant, has filed a complaint of misconduct, under 28 U.S.C. § 351(a), against a First Circuit district judge. Complainant alleges that the judge was biased and improperly dismissed her civil case. The misconduct complaint is baseless and not cognizable.

Complainant alleges that the judge was biased against her because the judge accepted the factual account set forth by certain defendants in order to grant their motion to dismiss. Complainant further alleges that the judge granted a second motion to dismiss, filed by other defendants, and dismissed the case in its entirety, in an effort to protect the defendants and preclude complainant's valid claims from reaching a jury. Complainant argues that the judge's determinations were inconsistent with legal

precedent and concludes that the judge "entered into a [c]riminal [c]onspiracy," in violation of the Code of Conduct for United States Judges and federal law.

The misconduct complaint is baseless.<sup>1</sup> There is no information in the complaint or in the reviewed record suggesting that the judge was biased or improperly motivated in granting the defendants' motions or dismissing the case. The reviewed record indicates that the judge issued two orders in which the court thoroughly explained the multiple bases for dismissing complainant's claims. Neither of these orders, nor any other information in the complaint or in the record of the case, support complainant's allegations of judicial bias or conspiracy. As there is no evidence of bias or other judicial impropriety, the misconduct complaint is dismissed as baseless, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(D).

Where, as here, the misconduct complaint derives only from complainant's disagreement with the substance of the court's rulings, it is not cognizable. See 28 U.S.C. § 352(b)(1)(A)(ii) and Rules of Judicial-Conduct, Rule 11(c)(1)(B); see also id., Rule 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.").

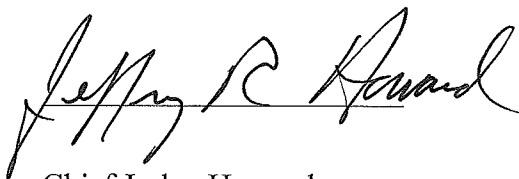
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<sup>1</sup>A violation of the Code of Conduct does not necessarily constitute judicial misconduct under the governing statute. See Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Commentary on Rule 3. In the present matter, there is no indication that the judge violated the Code of Conduct, let alone engaged in misconduct.

For the reasons stated, Complaint No. 01-16-90008 is dismissed, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii) and 352(b)(1)(A)(iii).

4.26.16

Date

A handwritten signature in black ink, reading "Jeffrey R. Howard". The signature is written in a cursive style with a horizontal line underneath the name.

Chief Judge Howard