

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-16-90010

BEFORE
Howard, Chief Circuit Judge

ORDER

ENTERED: JULY 12, 2016

Complainant, a pro se plaintiff in a civil case, filed a complaint, under 28 U.S.C. § 351(a), alleging that a form issued by the district court in connection with complainant's appeal constituted misconduct by the presiding district judge. The misconduct complaint is baseless.

Complainant alleges that the form prepared by district court clerk's office staff for the purpose of transmitting the district court record to the Court of Appeals failed to provide complainant's *in forma pauperis* (IFP) status and contained a clerical error in the case number. Complainant contends that omission of complainant's IFP status was "an unconscionable Obstruction of Justice" because the district court had previously granted his motion for leave to proceed IFP and, under the governing federal rule of procedure, a party who was permitted to proceed IFP in district court may do so on appeal without

further authorization. Complainant continues that the failure of the clerk's office staff to correct this purported error immediately demonstrated that the district court and the presiding judge were "denying [complainant] Due Process of Law and [his] Appeal as of Right."

The misconduct complaint is baseless. Complainant does not even allege, let alone provide any evidence of, facts that would constitute judicial impropriety. Any alleged clerical errors are not attributable to the presiding judge or indicative of misconduct. See, e.g., Lynch, C.C.J., Order, In Re Judicial Misconduct Complaint, No. 01-13-90015, Dec. 18, 2013, at 3-4 (citing Boudin, C.C.J., Amended Order, In re Judicial Misconduct Complaint, No. 406, Sept. 5, 2005, at 3). There is no information whatsoever to suggest that the judge sought to deprive complainant of due process or otherwise interfere with his rights. Accordingly, the misconduct complaint is dismissed as frivolous, 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).¹

For the reasons stated, Complaint No. 01-016-90010 is dismissed, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(C).

July 12, 2016
Date

Jeffrey R. Howard
Chief Judge Howard

¹ Although not necessary to the resolution of the misconduct complaint, clerk's office staff promptly issued an amended form correcting the case number and noting complainant's IFP status.