

JUDICIAL COUNCIL  
OF THE FIRST CIRCUIT

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IN RE  
COMPLAINT NOS. 01-16-90011 - 01-16-90022

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BEFORE

Laplante, Casper, McConnell, Delgado-Hernández, and Levy, District Judges

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ORDER

ENTERED: JULY 20, 2017

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Petitioner, a pro se plaintiff in civil litigation, has filed a petition for review of Chief Judge Howard's order dismissing his complaint, under 28 U.S.C. § 351(a), against a First Circuit magistrate judge and district judge and against all active and senior judges on the Court of Appeals.<sup>1</sup>

Petitioner alleged that the magistrate, district, and appellate judges conspired with state court judges, federal judges from another district court outside of the First Circuit, and others to fraudulently deny petitioner's claims. Petitioner provided a litany of

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<sup>1</sup> The Judicial Council authorized Chief Judge Howard to dispose of the complaint on the merits "in the interest of sound judicial administration." See Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rule 25(f) ("If all circuit judges in regular active service are disqualified, the judicial council may determine whether . . . in the interest of sound judicial administration, to permit the chief judge to dispose of the complaint on the merits. Members of the judicial council who are named in the complaint may participate in this determination if necessary to obtain a quorum of the council.").

grievances from multiple cases and concluded that the judges and court staff colluded with the defendant to destroy evidence and deny his claims.

In his order dismissing the misconduct complaint, Chief Judge Howard observed that only three of the First Circuit appellate judges named in the complaint were involved in petitioner's case. Further, petitioner offered no evidence to support his allegations of conspiracy or any other judicial wrongdoing. The original complaint was based entirely on petitioner's disagreement with the substance of multiple court rulings. Accordingly, Chief Judge Howard dismissed the complaint as not cognizable and as frivolous. See 28 U.S.C. §§ 352(b)(1)(A)(ii) and 352(b)(1)(A)(iii); see also Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rules 11(c)(1)(B) and 11(c)(1)(C).

In the petition for review, petitioner repeats his conspiracy allegations. Additionally, petitioner asserts that Chief Judge Howard failed to adequately review his misconduct complaint and dismissed the complaint as a "favor[ ] for the lower courts." Finally, petitioner seems to request a hearing and "a settlement for the stolen property."

As an initial matter, the judicial misconduct procedure does not provide an avenue for affording relief in a pending or closed case, including the hearing or settlement that petitioner requests. See 28 U.S.C. § 351, *et seq.*; see also Rules of Judicial-Conduct, Rules 11, 19, and 20.

Moreover, the petition for review is meritless. Petitioner provides no evidence of improper judicial motive or other wrongdoing that would undermine the Chief Judge's determinations or suggest that Chief Judge Howard was improperly motivated in reviewing the misconduct complaint. Petitioner's conclusory allegations of collusion derive exclusively from his disagreement with the substance of the courts' orders denying his requested relief. Therefore, Chief Judge Howard appropriately dismissed the complaint as not cognizable and as frivolous. See 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), and Commentary on Rule 3 ("Any allegation that calls into question the correctness of an official action of a judge without more is merits-related. . . . Thus, a [claim] challenging the correctness of a chief judge's determination to dismiss a . . . misconduct complaint would be properly dismissed as merits-related.").

For the reasons stated herein, the order of dismissal issued in Judicial Misconduct Complaint Nos. 01-16-90011 - 01-16-90022 is affirmed. See Rules for Judicial-Conduct, Rule 19(b)(1).

7/20/2017

Date



Susan Goldberg, Secretary