

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-16-90028

BEFORE
Howard, Chief Circuit Judge

ORDER

ENTERED: AUGUST 17, 2016

Complainant, a *pro se* plaintiff in a civil case, filed a complaint of misconduct, under 28 U.S.C. § 351(a), against a First Circuit district judge. Complainant alleges that the judge was racially biased and, as a result, wrongfully denied complainant's motion to reopen the proceeding. Complainant further alleges that the judge's conduct was unethical, as defined by the Code of Conduct for United States Judges, and that the judge failed to "perform the duties of judicial office, impartially, competently, and diligently."

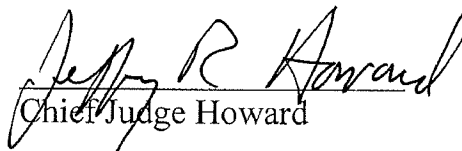
The misconduct complaint is baseless and not cognizable. The record indicates that the court allowed the defendant's unopposed motion to dismiss the proceeding and denied the motion to reopen the case that complainant filed two years later. Neither the court's orders, nor any other information in the complaint or in the record of the case, offer any support for complainant's allegations of judicial bias or unethical conduct in

connection with either the original order of dismissal or the order denying complainant's motion to reopen.¹ Accordingly, the misconduct complaint is dismissed 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).

Because the misconduct complaint is based exclusively on complainant's disagreement with the judge's rulings, it is dismissed as not cognizable. See 28 U.S.C. § 352(b)(1)(A)(ii) and Rules of Judicial-Conduct, Rule 11(c)(1)(B). See also Rules of Judicial-Conduct, 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.").

For the reasons stated, Complaint No. 01-16-90028 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)(D), respectively.

8.17.16
Date


Chief Judge Howard

¹ While the Code of Conduct for United States Judges may inform the consideration of a misconduct complaint, a violation of the Code does not necessarily constitute judicial misconduct under the governing statute. See Rules for Judicial-Conduct and Judicial-Disability Proceedings, Commentary on Rule 3.