

JUDICIAL COUNCIL  
OF THE FIRST CIRCUIT

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IN RE  
COMPLAINT NO. 01-20-90011

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BEFORE  
Lynch, Circuit Judge

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ORDER

ENTERED: FEBRUARY 23, 2021

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Complainant, an incarcerated pro se litigant, has filed a complaint, under 28 U.S.C. § 351(a), against a First Circuit appellate judge. Complainant alleges judicial misconduct in connection with the appeal of his civil case in which the appellate judge had no involvement. The misconduct complaint is frivolous and is not cognizable.

Complainant levies numerous allegations, including, but not limited to, that the judge accepted bribes, and has engaged in retaliation, discrimination, hostile conduct, and treason. Complainant further asserts that the judge "impos[ed] a judicial tax" on complainant and has violated the Constitution.

The record, including the misconduct complaint and the dockets and orders of the relevant proceedings, demonstrates that the judge played no role in complainant's proceedings and thus provides no basis for complainant's conclusory allegations of judicial misconduct. Complainant filed, in the district court, a civil action against a

number of government officials and entities, and a motion for appointment of counsel. A district court judge dismissed the proceeding sua sponte for lack of subject matter jurisdiction and noted that, as complainant has filed hundreds of civil cases in various federal courts, he would not be granted leave to proceed in forma pauperis (IFP) unless he demonstrated that he met the statute's requirement.

Complainant appealed the district court's order of dismissal. The Court of Appeals issued a clerk's order directing complainant to either pay the required filing fee or to show cause why his appeal should proceed. Complainant filed a motion to proceed IFP, and the Court issued a clerk's order extending the deadline for complainant to respond to the show cause order. Complainant filed a motion to reconsider the Court's order extending the deadline in which he asserted that the statute barring him from proceeding IFP is unconstitutional. A Court of Appeals panel, which did not include the subject judge, dismissed the appeal.

Complainant fails to allege and the record fails to provide any facts suggesting that the subject judge had any involvement in complainant's appeal, let alone engaged in misconduct. 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).

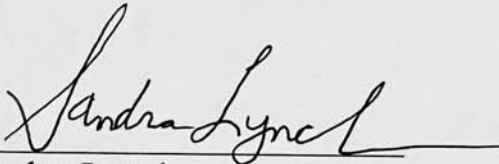
Independently, inasmuch as the misconduct complaint is based on complainant's disagreement with the orders issued in his appeal, it is not cognizable for that reason as well. See Rules of Judicial-Conduct, Rule 4(b)(1) ("[A misconduct] complaint is not

cognizable to the extent that it calls into question the merits of [a] decision.").

Accordingly, the complaint is dismissed, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(B).

For the reasons stated, the misconduct complaint 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)(A) and 11(c)(1)(C), respectively.

February 23, 2021  
Date

  
Judge Lynch