

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-20-90012

BEFORE
Howard, Chief Circuit Judge

ORDER

ENTERED: FEBRUARY 24, 2021

Complainant, an incarcerated pro se litigant, has filed a complaint, under 28 U.S.C. § 351(a), against a district judge in the First Circuit.¹ Complainant alleges judicial misconduct in connection with his civil case over which the judge presided. The misconduct complaint is frivolous and is not cognizable.

Complainant alleges that the judge engaged in "high crimes and misdemeanors," accepted gifts and bribes from complainant, and violated the Constitution and the "rule of law." Complainant further alleges that the judge engaged in "discrimination, . . . retaliation, [and] abusive, hostile, and offensive behavior."

¹ This is complainant's second misconduct complaint. In his first misconduct complaint, complainant alleged that a First Circuit appellate judge engaged in judicial misconduct in connection with his appeal of the civil case underlying the present matter. See Judicial Misconduct Complaint No. 01-20-90011. Judge Lynch dismissed the complaint pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii) and 352(b)(1)(A)(iii). See Lynch, C.J., Order, In Re: Judicial Misconduct Complaint No. 01-20-90011 (February 23, 2021).

The reviewed record, including the misconduct complaint and the docket and order of dismissal of the relevant proceeding, provides no basis for complainant's conclusory allegations of judicial misconduct. According to the record, complainant filed a civil action against a number of government officials and entities, and a motion for appointment of counsel. The judge dismissed the proceeding sua sponte for lack of subject matter jurisdiction. In the multiple-page order of dismissal, the judge noted that, as complainant has filed hundreds of frivolous civil cases in various federal courts, he would not be granted leave to proceed in forma pauperis unless complainant demonstrated that he met the statutory standard for doing so.

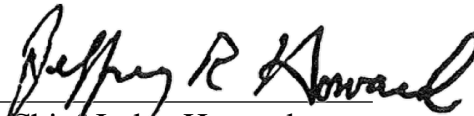
Complainant fails to allege and the record fails to provide any facts suggesting that the judge was improperly motivated or otherwise engaged in wrongdoing in connection with complainant's case. The judge clearly explained the court's reasons for dismissing complainant's case in a multiple-page order. 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).

Insofar as the misconduct complaint is based on complainant's disagreement with the order dismissing his case, it is not cognizable. See Rules of Judicial-Conduct, Rule 4(b)(1) ("Cognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling If the decision or ruling is alleged to be the result of an improper motive . . . or improper conduct . . . the complaint is not cognizable to the

extent that it calls into question the merits of the 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). In addition, complainant should note that the filing of another frivolous judicial misconduct complaint may precipitate issuance of an order to show cause. See Rules of Judicial-Conduct, Rule 10(a) ("A complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints . . .").

February 24, 2021
Date



Chief Judge Howard