

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-08-90032

BEFORE
Lynch, Chief Circuit Judge

ORDER
ENTERED: DECEMBER 9, 2008

On September 16, 2008, complainant, a pro se litigant, filed a complaint of judicial misconduct under 28 U.S.C. § 351(a) against an appellate judge in the First Circuit. The complainant alleges that the judge has engaged in misconduct while presiding over the appeal of the complainant's civil rights proceeding.

The complainant charges that the judge discriminated against the complainant and disregarded the Constitution by directing United States Marshals to kill "by cold blood means family members, relatives, and companions of the complainant" The complainant asserts that the judge somehow authorized these "genocide killings" and includes a compilation of monetary figures allegedly delineating the punitive damages incurred.

The complaint is baseless. The relevant dockets indicate that the district court dismissed the complainant's underlying case on the ground that he was ineligible for in forma pauperis status because he had had three or more previous cases dismissed as frivolous. See 28 U.S.C. § 1915(g). The complainant appealed and the judge charged in the present matter participated in the appellate

court's dismissal of the complainant's appeal. The misconduct complaint and the record of the case are devoid of any facts suggesting that the judge harbored any animus or engaged in any other wrongdoing in connection with the proceeding. Accordingly, the 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 Misconduct), Rule 11(c)(1)(C).

Insofar as the complainant disputes the court's dismissal of the proceeding, or the substance of any other orders issued by the judge in connection with the complainant's case, the complaint is directly related to the merits and is not cognizable. See Rules of Judicial Misconduct, Rule 3(h)(3)(A). Accordingly, the complaint is also dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules of Judicial Misconduct, Rule 11(c)(1)(B).

For the reasons stated, Judicial Misconduct Complaint No. 01-08-90032 is dismissed, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii), and 352(b)(1)(A)(iii).

12/18/08
Date

Sandra L. Lynch
Chief Judge Lynch