

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-09-90001

BEFORE
Torruella, Circuit Judge

ORDER

ENTERED: MARCH 31, 2009

Complainant, a pro se litigant, filed a complaint of judicial misconduct under 28 U.S.C. § 351(a), on January 12, 2009, against a circuit judge for allegedly improperly dismissing two previous judicial misconduct complaints that the complainant had filed. The complainant charges that, by dismissing the complaints, the circuit judge has "become a party" to the judicial impropriety charged in the complainant's previous matters.

The complainant alleges that, in reviewing the accusations that the complainant levied against the other judges, the reviewing circuit judge neglected to act as an impartial "fact-finder," instead using "fabrication, hearsay, fraud and gossip to cover-up the criminal conspiracy" of the charged judges. The complainant reiterates the numerous allegations of judicial malfeasance, deceit, fraud and conspiracy presented in his original matter and contends that the circuit judge knowingly failed to address the judges' wrongdoing. The complainant asserts that the circuit judge acted "without jurisdiction" and relied on an "illegally altered transcript," in determining that the reviewed materials

did not evidence misconduct. The complainant further claims that the circuit judge wrongfully ignored affidavits submitted with the complaint and "the fact that the state judge's ruling [was] void." The complainant continues that the circuit judge failed to "enact [the] remedial action" necessary to correct the docket and the charged judges' malfeasance. Finally, the complainant infers that, in dismissing his misconduct complaints, the reviewing judge relied on ex-parte assurances from the charged judges instead of the evidence submitted by the complainant.

The complaint is baseless. Having failed to obtain the desired results from his misconduct complaints, the complainant now asserts, without any factual basis, that the deciding judge was biased in reviewing them. The circuit judge's dismissal of the previous misconduct complaints was reviewed by the First Circuit Judicial Council which observed that the judge had "conducted a thorough review of the relevant record before determining that it lacked any information in support of the petitioner's claims"

Moreover, the complainant presents no facts supporting the charge that the circuit judge lacked impartiality. Despite the complainant's assertion to the contrary, the lengthy order of dismissal demonstrates the judge's attention to each of the complainant's allegations and to the record of the case, including the affidavits submitted with the complaint. Nor does the complainant present any evidence that the deciding judge engaged in improper communication with the charged judges in connection with the matter. See Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial Misconduct), Rule 11, and Commentary on Rule 11. Such "a complaint challenging the correctness of a . . . judge's determination to dismiss a prior misconduct complaint [is] properly dismissed as merits-related" Rules of Judicial Misconduct, Commentary on Rule 3. Accordingly, the complaint is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii), and Rules of

Judicial Misconduct, Rule 11(c)(1)(B).

3/31/09
Date



Judge Torruella