

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-09-90002

BEFORE
Lynch, Chief Circuit Judge

ORDER

ENTERED: APRIL 16, 2009

Complainant, a pro se civilly committed litigant, filed a complaint of judicial misconduct under 28 U.S.C. § 351(a), on January 20, 2009, against a district judge in the First Circuit. The complainant alleges that the judge engaged in wrongdoing and was impaired by a mental disability while presiding over the complainant's recent civil action against another federal judge and other federal officials.

The complainant charges that the judge has "conspired with others to suspend habeas corpus rights," disregarded federal law, failed to "acknowledge the U.S. Constitution," and neglected to "adhere to [the] Canons of Judicial Conduct." The complainant asserts that the judge's rulings ignored the validity of the complainant's claims and, thereby, demonstrate that the judge is "mentally incapacitated . . . and . . . [un]able to read and comprehend the English language any longer, nor adhere to this Court's holdings"

Based upon his "30 years of experience in intelligence work and public integrity

investigations," the complainant next alleges that the judge harbors a personal bias against the complainant and, "upon information and belief," is accepting bribes from an identified attorney and a "convicted arsonist/mail fraud convict," whose name the complainant also supplies. The complainant submits apparent copies of pleadings and affidavits filed in the case at issue, as well as in another more recent proceeding that the complainant also filed.

A review of the case docket, pleadings and court orders indicates that the complainant filed the case against a federal judge (from another circuit) and others reportedly responsible for the complainant's civil commitment, alleging, in part, that the defendants lacked legal authority for confining the complainant. The complainant subsequently filed numerous motions, including a motion to proceed in forma pauperis (IFP) and a motion to amend his complaint.

In response, the judge in this circuit issued an eight-page order allowing the complainant's IFP motion, denying the complainant's other motions, and ordering the complainant to show cause why his case should not be dismissed. The judge recounted the proceeding that precipitated the complainant's commitment and summarized the complainant's claims that the defendants lack legal authority to confine civilly committed persons in federal prisons. Screening the complaint pursuant to the IFP statute, 28 U.S.C. § 1915, the judge explained that, under applicable law, the complainant failed to state a claim for relief and gave him 35 days in which to file an amended complaint demonstrating why the case should not be dismissed.

After the complainant filed an amended complaint, additional motions, and other pleadings, the judge issued another lengthy memorandum and order dismissing the case. The judge reviewed the amended complaint, noting that it contained new claims against additional defendants, including the assertion that all of the defendants suffer from a "mental disease." The judge concluded that the

complainant's allegations were both "clearly baseless" and "not pled with sufficient particularity." Accordingly, the case was dismissed.

The reviewed materials -- including the complaint, the docket, the pleadings and the courts orders -- demonstrate that the misconduct complaint is frivolous. There is no evidence suggesting that the judge was biased against the complainant, engaged in a conspiracy to thwart the complainant's case, accepted bribes, suffers from a mental disability, or engaged in any other wrongdoing. Accordingly, the complaint is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(iii), and Rules of Judicial Misconduct, Rule 11(c)(1)(C). Insofar as the complaint derives from the complainant's disagreement with the substance of the court's rulings, it is also dismissed as merits-related pursuant to 28 U.S.C. § 352(b)(1)(A)(ii), and Rules of Judicial Misconduct, Rule 11(c)(1)(B).

For the reasons stated, Judicial Misconduct Complaint No. 01-09-90002 is dismissed pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii), and 352(b)(1)(A)(iii).

4/16/09
Date

Sandra L. Lynch
Chief Judge Lynch