

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-09-90014

BEFORE
Lynch, Chief Circuit Judge

ORDER

ENTERED: NOVEMBER 5, 2009

Complainant filed a complaint of judicial misconduct under 28 U.S.C. § 351(a), against a First Circuit district judge. The complainant alleges that the judge mishandled a 2003 criminal case in which the complainant was not involved.

The complaint is substantively identical to multiple misconduct complaints previously filed by both the defendant in the case and unaffected third parties. In 2006, the defendant filed two misconduct complaints, each of which alleged that the judge allowed the defendant to be convicted although the judge knew that he was innocent, improperly told the defendant that his standby counsel would not be allowed to assist him with the sentencing phase of his case, and then wrongfully expunged the statement to this effect from the transcript. Then Chief Judge Boudin dismissed the charges in each complaint, and the orders of dismissal were affirmed by the judicial council. See Boudin, C.C.J. Order, In Re: Complaint No. 428, May 23, 2006, Judicial Council of the First Circuit, Order, In Re: Complaint No. 428, September 18, 2006, Boudin, C.C.J. Order, In Re: Complaint No. 445, April 5, 2007, and Judicial Council of the First Circuit, Order, In Re:

Complaint No. 445, July 9, 2007.

In addition, during 2006 and 2007, over 20 other individuals -- unrelated to the litigation -- filed substantively identical complaints against the judge. Chief Judge Boudin consolidated these complaints and held that "where an unaffected third party is bringing allegations in a misconduct complaint that have already been addressed, and present no indication of any conceivable impact on the second, unrelated complainant," the latter complaint(s) may be dismissed as "wholly duplicative," pursuant to 28 U.S.C. § 352(b)(1)(A)(i). Judicial Council of the First Circuit, Order, In Re: Complaint No. 445, supra, at 2, citing Boudin, C.C.J. Order, In Re: Complaint No. 430, May 23, 2006.

The complainant in the present matter reiterates the exact same charges against the same judge that were dismissed when initially filed by the litigant, see Orders, In Re: Complaint No. 428, supra, and on numerous subsequent occasions when presented by others unrelated to the litigation. See Orders, In Re: Complaints No. 430 and No. 445, supra. Accordingly, the complaint is dismissed as wholly duplicative pursuant to 28 U.S.C. § 352(b)(1)(A)(i). See Judicial Council of the First Circuit, Order, In Re: Complaint No. 445, supra, at 2, and cases cited. See also Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial Misconduct), Rule 11(c)(1)(A).

For the reasons stated, Judicial Misconduct Complaint No.01-09-90014 is dismissed, pursuant to 28 U.S.C. § 352(b)(1)(A)(i).

11/05/09
Date

Stephen L. Lynch
Chief Judge Lynch