

JUDICIAL COUNCIL  
OF THE FIRST CIRCUIT

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IN RE  
COMPLAINT NO. 01-12-90013

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BEFORE  
Lynch, Chief Circuit Judge

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ORDER

ENTERED: MAY 11, 2012

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Complainant, a litigant, filed a complaint, under 28 U.S.C. § 351(a), alleging that a district judge retaliated against the complainant by informing the United States Marshals Service (U.S.M.S.) about a letter that complainant had written to the judge which the complainant himself describes as disparaging. Complainant asserts that the judge's reasons for reporting the letter were wrongful.

This is complainant's second purported misconduct complaint against this district judge. In 2010, the complainant filed a misconduct complaint alleging that the judge improperly delayed in entering the order of acquittal mandated by the Court of Appeals' reversal of the complainant's conviction. Based upon the results of a limited inquiry, I dismissed this complaint, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(i), and 352(b)(1)(B).

See Order, Lynch, C.C.J., In Re: Complaint No 01-10-90020, December 1, 2010. The First Circuit Judicial Council affirmed the order of dismissal. See Order, Judicial Council of the First Circuit, In Re: Complaint No 01-10-90020, May 16, 2011.

Complainant sent the letter described after having been repeatedly directed to refrain from submitting documents pro se when represented by counsel<sup>1</sup>, and during a simultaneous prosecution for sending a threatening communication to the United States Attorney's Office in an unrelated matter. The judge referred the letter to security personnel in accordance with protocol established by the U.S.M.S. to preserve the security of the federal judiciary. I have reviewed complainant's letter and the referral was entirely appropriate.<sup>2</sup>

The complaint is dismissed as frivolous, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). As the judge's referral of the letter to the U.S.M.S. was not remotely indicative of misconduct, the complaint is also dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(i). See also Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rules 11(c)(1)(C), and 11(c)(1)(A), respectively.

As to the conduct of the U.S.M.S. with respect to the letter, that is not within the

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<sup>1</sup>Court records indicate that complainant has been the subject of several other criminal prosecutions and has filed over 50 civil cases in the district court.

<sup>2</sup>A different district judge denied complainant's request in the district court to remove the judicial threat notification from complainant's prison file.

purview of the judicial misconduct statute or rules <sup>3</sup>, and was improperly brought.

For the reasons stated, Complaint No. 01-12-90013 is dismissed, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(i), and 352(b)(1)(A)(iii). See also Rules of Judicial-Conduct, Rules 11(c)(1)(A), and 11(c)(1)(C).

\_\_\_\_\_ 5/11/12

Date

\_\_\_\_\_ Sandra L. Lynch

Chief Judge Lynch

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<sup>3</sup>In response to complainant's inquiry, the Clerk's Office submitted a letter to complainant explaining that U.S.M.S. and Bureau of Prisons notifications are not subject to the court's oversight.