

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINTS NOS. 01-12-90025 and 01-12-90026

BEFORE
Lynch, Chief Circuit Judge

ORDER

ENTERED: DECEMBER 5, 2012

Complainant, a litigant, has filed a complaint, under 28 U.S.C. § 351(a), alleging that a district judge and a magistrate judge engaged in misconduct while presiding over the complainant's civil case. This is complainant's third misconduct complaint. Each of complainant's earlier misconduct complaints - filed against different judges and concerning different civil cases - was dismissed as baseless.¹ See Boudin, C.C.J., Order, In Re: Complaint No. 436, September 27, 2006, and Judicial Council of the First Circuit, Order, In Re: Complaint No. 436, February 8, 2007. See also Lynch, C.C.J., Order, In Re: Complaint No. 01-11-90034, November 1, 2011, and Judicial Council of the First

¹Court records indicate that the complainant has filed five civil cases in the district court and four appeals.

Circuit, Order, In Re: Complaint No. 01-11-90034, May 7, 2012.

Complainant alleges that the magistrate judge and the district judge improperly dismissed complainant's recent case. Complainant contends that, by dismissing the case, the magistrate judge and district judge deprived the complainant of the right to present witnesses. Complainant asserts that his civil complaint complied with the Federal Rules of Civil Procedure, and concludes that the magistrate judge has a "vendetta" against complainant.

Complainant adds that the case manager improperly sent court documents to the incorrect address and charges staff with harassing complainant.

The misconduct complaint is not cognizable and is frivolous. There is no evidence whatsoever of judicial bias or impropriety by either the district judge or the magistrate judge, let alone that the magistrate judge harbored a "vendetta" against complainant. The reviewed record indicates that the magistrate judge issued a lengthy recommended ruling addressing each of complainant's claims before determining that his factual allegations were insufficient to sustain the action. When complainant failed to timely file an amended complaint addressing the deficiencies, the district judge dismissed the case.

Complainant's disagreement with the court's dismissal of his case does not constitute a cognizable misconduct complaint. Accordingly, the misconduct complaint is dismissed as not cognizable, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii), and 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-Conduct), Rules 11(c)(1)(B) and 11(c)(1)(C), respectively.

There is likewise no information to support the charge that court staff have harassed complainant or otherwise treated him improperly. The record indicates that one of the orders mailed to complainant's address was initially returned to the court by the United States Post Office as "undeliverable." Any error by staff in this regard - of which there is no evidence - would not be indicative of judicial misconduct. See Boudin, C.C.J., Amended Order, In Re: Complaint No. 406, September 9, 2005, at 3.

For the reasons stated, Complaints Nos. 01-12-90025 and 01-12-90026 are dismissed, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii), and 352(b)(1)(A)(iii). See also Rules of Judicial-Conduct, Rules 11(c)(1)(B) and 11(c)(1)(C).

12/5/12

Date

Sander L. Lynch

Chief Judge Lynch