

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-12-90031

BEFORE

Torruella, Thompson, and Kayatta, Circuit Judges
Lisi and Besosa, District Judges

ORDER

ENTERED: JUNE 19, 2013

Petitioner, a pro se litigant, has filed a petition for review of Chief Judge Lynch's order dismissing his complaint, under the Judicial Conduct and Disability Act, 28 U.S.C. § 351(a), against a district judge. The petitioner alleged that the judge was biased against the petitioner in handling petitioner's civil case.

The petitioner originally alleged that the judge "misconstrued" petitioner's claims and wrongfully dismissed his meritorious action. Petitioner contends that the judge dismissed the case as frivolous as a "ploy" to avoid the merits of petitioner's claims and to protect the judge's appointment to the court.

Chief Judge Lynch dismissed the misconduct complaint. The Chief Judge determined that the petitioner provided no evidence of bias, self-interest, or any other wrongdoing. Chief Judge Lynch observed that the reviewed record of the proceeding - including the misconduct complaint, the docket, and the relevant pleadings and court orders - indicated that the judge dismissed petitioner's case because petitioner failed to state a claim under federal law or

establish standing. The Chief Judge noted that the court did so after granting the petitioner's request to proceed *in forma pauperis* and issuing a lengthy memorandum and order.

As petitioner had offered no evidence of bias, self-interest or other judicial wrongdoing, Chief Judge Lynch dismissed the misconduct complaint 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), Rule 11(c)(1)(C). Insofar as the misconduct complaint was based exclusively on judicial rulings with which the petitioner disagreed, it was also dismissed as directly related to the merits, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(B).

In the petition for review, petitioner restates his original claim that the judge's decision dismissing petitioner's case was "erroneous." The petitioner asserts that the judge failed to address his arguments and act on the evidence. Petitioner presents apparent quotations from statutes and case law, and concludes that the judge's failure to properly apply the rules of evidence resulted in "substantial error."

The petition for review is without merit. The misconduct complaint, the petition for review, and the record of petitioner's proceedings are devoid of any information suggesting that the judge was biased against the petitioner or engaged in any other impropriety in connection with petitioner's case. The petition consists only of miscellaneous quotes that have no bearing on the petitioner's claims against the judge. Accordingly, the misconduct complaint was appropriately dismissed as frivolous, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(C).

As explained by Chief Judge Lynch, where, as here, there is no evidence of improper

judicial motivation, the petitioner's disagreement with the judge's rulings do not constitute a cognizable complaint of misconduct. See 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(B) and Commentary on Rule 3 (A challenge to the "correctness of an official action" without more is "merits-related"). Accordingly, the misconduct complaint was also properly dismissed as not cognizable, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(B).

For the reasons stated herein, the order of dismissal issued in Judicial Misconduct Complaint No. 01-12-90031 is affirmed. See Rules for Judicial-Conduct, Rule 19(b)(1).



Susan Goldberg, Acting Secretary