

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-12-90031

BEFORE
Lynch, Chief Circuit Judge

ORDER

ENTERED: JANUARY 31, 2013

Complainant, a litigant, filed a complaint, under 28 U.S.C. § 351(a), alleging that a district judge engaged in misconduct while presiding over complainant's civil action. Complainant alleges that the judge was biased against him and “misconstrued” the allegations presented in complainant's case. The complainant asserts that the judge dismissed complainant’s meritorious action in order to protect the judge’s appointment to the court.

The misconduct complaint is frivolous and is not cognizable. Complainant provides no facts indicating that the judge was biased, self-interested, or engaged in any other wrongdoing in connection with complainant's case. The reviewed record - including the misconduct complaint, the docket, and relevant pleadings and court orders

from complainant's case - demonstrates that, after allowing the complainant's request to proceed *in forma pauperis* (IFP), the judge issued a lengthy memorandum and order dismissing the case on the grounds that complainant had failed to state a claim or establish standing under federal law. While complainant may disagree with both the judge's characterization of complainant's claims and with the substance of the court's determinations, such disagreement does not without more constitute a cognizable claim of misconduct. See Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rule 3(h)(3)(A).

As there is no evidence whatsoever that the judge was biased against the complainant or engaged in any other impropriety, the misconduct complaint is dismissed as frivolous. See 28 U.S.C. § 352(b)(1)(A)(iii), and Rules of Judicial-Conduct, Rule 11(c)(1)(C). Since the misconduct complaint does nothing more than attack the merits of the court's decision, it is 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, Complaint No. 01-12-90031 is 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).

1/31/13

Date



Chief Judge Lynch