

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-13-90005

BEFORE

Howard and Kayatta, Circuit Judges
DiClerico, Besosa and Torresen District Judges

ORDER

ENTERED: SEPTEMBER 30, 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 engaged in misconduct in presiding over his petition for a writ of habeas corpus.

The petitioner originally alleged that the judge improperly dismissed the case. Petitioner contended that, in dismissing the case, the judge "completely miscited" First Circuit precedent. Petitioner stated that, when he brought the error to the judge's attention by means of a motion to reconsider, the court improperly denied his motion without comment.

Chief Judge Lynch dismissed the misconduct complaint. The Chief Judge determined that, since the petitioner did nothing more than allege that the judge erroneously dismissed his case and denied his motion to reconsider, the misconduct complaint was not cognizable. See 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rule 11(c)(1)(B).

As petitioner had offered no evidence of bias or other judicial wrongdoing, Chief Judge Lynch also dismissed the misconduct complaint as baseless, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(C).

In the petition for review, petitioner argues that the Chief Judge "mischaracterize[d]" his complaint in the order of dismissal. Petitioner restates his original claim that the judge presiding over his habeas petition "completely miscited" First Circuit precedent. Petitioner asserts that the judge's "refus[al] to correct the record" in response to petitioner's motion for reconsideration demonstrates the judge's "cover-up and corruption."

The petition for review is without merit. The petition, like the judicial misconduct complaint, offers no evidence indicating that the judge was biased or improperly motivated in ruling in petitioner's habeas proceeding. The petitioner's inference that the court's ruling denying the motion for reconsideration somehow evidences "corruption" on the part of the judge is presented without any basis in fact. Accordingly, the misconduct complaint was appropriately dismissed as not cognizable, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii), and as baseless, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules of Judicial-Conduct, Rules 11(c)(1)(B), and 11(c)(1)(C), respectively.

For the reasons stated herein, the order of dismissal issued in Judicial Misconduct Complaint No. 01-13-90005 is affirmed. See Rules of Judicial-Conduct, Rule 19(b)(1).



Susan Goldberg, Acting Secretary