

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-13-90005

BEFORE
Lynch, Chief Circuit Judge

ORDER

ENTERED: JUNE 6, 2013

Complainant, an incarcerated litigant, filed a complaint, under 28 U.S.C. § 351(a), alleging that a district judge erroneously dismissed complainant's recent petition for habeas corpus and so committed misconduct. This is complainant's third misconduct complaint.

Complainant filed two previous and meritless misconduct complaints against another district judge. I dismissed the first complaint, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(i) and 352(b)(1)(B), and the First Circuit Judicial Council affirmed the order of dismissal. See Order, Lynch, C.C.J., In Re: Complaint No 01-10-90020, December 1, 2010, and Order, Judicial Council of the First Circuit, In Re: Complaint No 01-10-90020, May 16, 2011. The complainant's second misconduct complaint was

dismissed as both frivolous, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii), and as not indicative of misconduct, pursuant to 28 U.S.C. § 352(b)(1)(A)(i). See Order, Lynch, C.C.J., In Re: Complaint No 01-12-90013, May 29, 2012, and Order, Judicial Council of the First Circuit, In Re: Complaint No 01-12-90013, August 14, 2012.

In this complaint, the complainant alleges that the judge assigned to preside over complainant's recent habeas petition, filed under 28 U.S.C. § 2241, improperly dismissed the case. Complainant had filed the petition seeking an injunction providing him with medical treatment. Complainant contends that, in dismissing the case, the judge "completely miscited" First Circuit precedent. Complainant continues that, when he alerted the judge to the error by means of a motion to reconsider, the court improperly denied the motion without comment.

The misconduct complaint is not cognizable. "An allegation that calls into question the correctness of a judge's ruling. . . . without more is merits-related." Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rule 3(h)(3)(A). Complainant does nothing more than allege that the judge erroneously dismissed his case and denied the motion for reconsideration. Such a claim, without evidence of improper motivation or other wrongdoing, does not give rise to a cognizable complaint of judicial misconduct. Complainant here does not even allege let alone provide any supporting evidence suggesting that the judge was illicitly motivated in ruling in complainant's case. Accordingly, the misconduct complaint is 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, Complaint No. 01-13-90005 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).

6/6/13

Date

Sandra L. Lynch

Chief Judge Lynch