

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-13-90009

BEFORE
Lynch, Chief Circuit Judge

ORDER

ENTERED: OCTOBER 1, 2013

Complainant, a pro se, civilly committed litigant, filed a complaint, under 28 U.S.C. § 351(a), alleging that a district judge was biased in presiding over complainant's habeas petition. The complainant contends that the judge "willfully oppressed" complainant's rights showing "personal prejudice" in the matter over which the judge presided, "aided and abetted" perjury by a federal agent, and wrongfully ignored the arguments and evidence presented in a state court case to which complainant is a party.

The complainant later added that the judge's staff has refused to return documents from the case file that complainant requested, that the prison staff has interfered with the complainant's mail, and that the judge has "protected" and "lent the prestige" of office to "all of these criminals."

This is complainant's second misconduct complaint. In 2009, complainant filed a complaint against another district judge alleging bias and other impropriety in connection with a civil action that complainant had filed against a federal judge and federal officials from another circuit. I dismissed that misconduct complaint as directly related to the merits and as frivolous, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii) and 352(b)(1)(A)(iii), respectively. See Lynch, C.C.J., Order, In Re: Complaint No. 01-09-90002, April 16, 2009.

This misconduct complaint is also frivolous. Complainant does not present any evidence of judicial bias or other wrongdoing. The reviewed record - including the misconduct complaint, and the case docket, pleadings and court orders - indicates that the judge reviewed and dismissed complainant's petition for habeas corpus because it did not present any grounds for relief under federal law. The judge further explained that issues pertaining to the complainant's civil commitment proceeding belonged in the courts of the circuit in which complainant had been committed. As there are no facts corroborating complainant's conclusory claims of bias, oppression or any other wrongdoing, the misconduct complaint is dismissed 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 is based exclusively on complainant's disagreement with the judge's order of dismissal or other rulings issued in the case, it is

dismissed as not cognizable. See 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(B).

Finally, the judicial misconduct complaint procedure does not provide an avenue for addressing complainant's remaining claims against prison and court staff.¹ See 28 U.S.C. § 351. *et. seq.*, and Rules of Judicial-Conduct, Rule 1. Accordingly, these claims are dismissed, pursuant to 28 U.S.C. § 352(b)(1)(A)(i). See Rules of Judicial-Conduct, Rule 11(c)(1)(A).

For the reasons stated, Complaint No. 01-13-90009 is dismissed, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(i), 352(b)(1)(A)(ii), and 352(b)(1)(A)(iii). See also Rules of Judicial-Conduct, Rules 11(c)(1)(A), 11(c)(1)(B), and 11(c)(1)(C).

Oct 1, 2013

Date

Sandra Lynch

Chief Judge Lynch

¹Although not relevant to the misconduct complaint, it appears that complainant objects to the fact that he has not received date-stamped copies of several pleadings that he filed last month, over three years after the case was closed. Clerk's office staff have indicated that these motions will be reviewed by the court in accordance with the governing procedure.