

JUDICIAL COUNCIL  
OF THE FIRST CIRCUIT

---

IN RE  
COMPLAINTS NOS. 01-14-90002 and 01-14-90003

---

BEFORE  
Lynch, Chief Circuit Judge

---

ORDER

ENTERED: APRIL 30, 2014

---

Complainant, a pro se litigant in an employment discrimination proceeding, filed a complaint, under 28 U.S.C. § 351(a), against two district judges. One of the judges presided over complainant's case. The other judge was not involved in the proceeding.

Complainant alleges that the presiding district judge discriminated against complainant because he is disabled. Complainant asserts that the judge "created a hardship on [complainant's] Motions," failed to provide "reasonable accommodation[s]" for complainant as a pro se, disabled litigant, treated complainant in a "demonstrable [sic] egregious and hostile manner," denied complainant the "tools to defend [his] case, [and] kept [complainant] in [t]he dark . . . for nine months." Complainant adds that any deficiency in the service of process was the fault of the United States Marshals, not

complainant. Complainant asks that the motions denied by the judge be stricken from the record and that the judge be provided further training.

In a separate submission, complainant alleges that the other district judge also treated complainant improperly by denying him time to prepare his case. Complainant includes incoherent claims apparently contending that this judge wrongfully penalized complainant for his disability in violation of federal law. Complainant concludes that both judges "rushed to [j]udgment" by dismissing complainant's case without reviewing complainant's work history and other evidence. Complainant requests financial relief from both judges.

As an initial matter, the judicial misconduct complaint procedure does not provide a mechanism for obtaining money damages, or for modifying or "striking" rulings in a pending or closed case. See 28 U.S.C. § 351, *et. seq.*, and Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rules 11, 19 and 20.

Moreover, the misconduct complaints are frivolous and are not cognizable. As to the presiding district judge, the reviewed record indicates that, after allowing complainant to amend his complaint, the judge dismissed the case because complainant did not allege the necessary elements of the remaining cause of action. There is no information in the misconduct complaint or in the reviewed record of the case indicating that the judge was hostile or harbored any improper motive in rendering this decision or any other rulings issued in the case.

Complainant's allegations derive exclusively from his disagreement with the substance of the judge's orders. "Cognizable misconduct . . . does not include . . . [a]n allegation that calls into question the correctness of a judge's ruling, . . . without more . . . ." Rules of Judicial-Conduct, Rule 3(h)(3)(A). Any claim that the judge improperly delayed in ruling on complainant's case also is not cognizable. See id., at Rule 3(h)(3)(B). Accordingly, the misconduct complaint against the presiding judge is dismissed, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(B).

There is no indication in the misconduct complaint or court records that the other judge played any role in complainant's case or its dismissal. Insofar as this judge may have denied or disregarded requests that complainant submitted directly to chambers - of which there is no evidence - this would not be indicative of judicial wrongdoing.

Since the complainant fails to provide any evidence of bias or misconduct by either judge, the misconduct complaints are 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).

For the reasons stated, Complaints Nos. 01-14-90002 and 01-14-90003 are 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).

4/30/14  
Date

  
\_\_\_\_\_  
Chief Judge Lynch