

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-15-90005

BEFORE
Howard and Kayatta, Circuit Judges
Saylor, McConnell and Delgado Hernández, District Judges

ORDER

ENTERED: OCTOBER 7, 2015

Petitioner, a pro se litigant in a civil proceeding, has filed a petition for review of then Chief Judge Lynch's order dismissing her complaint, under the Judicial Conduct and Disability Act, 28 U.S.C. § 351(a), against a magistrate judge. The petitioner alleged that the magistrate judge engaged in misconduct while presiding over petitioner's case.

Petitioner originally alleged that that the magistrate judge was "not ruling on [petitioner's] case and [was] taking a[n] unusual time." Petitioner added that "reliable sources" stated that the magistrate judge "may have been threatened or pressured"

Chief Judge Lynch dismissed the misconduct complaint. First, Chief Judge Lynch determined that petitioner's allegation that the magistrate judge had delayed in ruling in the matter was not cognizable. See Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rule 3(h)(3)(B) ("Cognizable misconduct . . . does not include . . . an allegation about delay in rendering a decision or procedural ruling."); see also Rules of Judicial Conduct, Commentary on Rule 3 ("[A] complaint of delay in a single case is excluded as

merits-related. Such an allegation may be said to challenge the correctness of an official action of the judge—in other words, assigning a low priority to deciding a particular case."). Therefore, Chief Judge Lynch dismissed the claim of delay as not cognizable, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See Rules for Judicial Conduct, Rule 11(c)(1)(B).¹

Chief Judge Lynch dismissed petitioner's remaining allegation that the magistrate judge "may have been threatened or pressured" as frivolous, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii), and Rules for Judicial-Conduct, Rule 11(c)(1)(C). Chief Judge Lynch observed that petitioner failed sufficiently to allege or provide any evidence of misconduct. See Rules of Judicial-Conduct, Rule 6(b) ("A complaint must contain a concise statement that details the specific facts on which the claim of misconduct or disability is based."). Chief Judge Lynch further observed that the district court's orders did not provide any evidence of judicial wrongdoing.² Accordingly, the Chief Judge also dismissed the misconduct complaint as frivolous, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules for Judicial-Conduct, Rule 11(c)(1)(C).

In the petition for review, petitioner reiterates the allegations that the magistrate judge has unreasonably delayed issuing rulings in petitioner's case and is subject to outside influence and pressure. Petitioner adds that the magistrate judge's delays are the result of bribes from several named individuals, some of whom were defendants in previous actions brought by petitioner. In apparent support of the bribery claim, petitioner states that "she has spoken to several reliable sources and all stated the Judge hearing this particular case has either been threatened[,] swayed or paid." Petitioner includes three videos in which petitioner and several others, whose names

¹ Although not necessary to the disposition of the matter, then Chief Judge Lynch noted that the magistrate judge had issued two orders in the case, including a five-page memorandum and order, since the case was filed.

² These orders included allowing petitioner to proceed *in forma pauperis*, ordering service on one defendant and requiring petitioner to show cause why the other defendants should not be dismissed.

and relationship to petitioner are not clear, assert that the magistrate judge has been threatened in an effort to prevent petitioner from receiving benefits to which she is entitled. One subject of the recordings, also claims that the magistrate judge's chambers staff provided information to him regarding the timing and substance of the magistrate judge's ruling in petitioner's case.

Petitioner further claims that the individuals who have bribed the magistrate judge "wanted [petitioner] dead or quiet." Petitioner notes that she "has filed federal conspiracy complaints" against some of these people. Petitioner concludes that "most of her information [that forms the basis of] the judicial misconduct complaint . . . [was] from credible sources from federal employee's local and state workers [sic]."

The petition for review offers no information that undermines then Chief Judge Lynch's determinations. The conclusory statements of petitioner and others with no personal knowledge of relevant facts fail to provide any "reliable factual foundation" for petitioner's claims. See Rules of Judicial Conduct, Commentary on Rule 11. Accordingly, the complaint was appropriately dismissed as lacking sufficient evidence, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules for Judicial-Conduct, Rule 11(c)(1)(D).

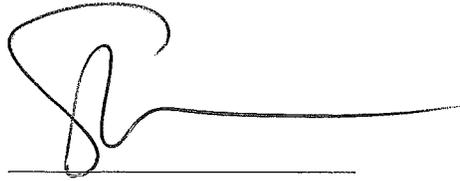
As Chief Judge Lynch previously determined, where there is no evidence of bias or judicial animus, claims of judicial delay are "excluded as merits-related." Rules of Judicial-Conduct, Commentary on Rule 3. See also Rules of Judicial-Conduct, Rule 3(h)(3)(B) ("Cognizable misconduct . . . does not include . . . an allegation about delay in rendering a decision or procedural ruling").³ Therefore, the misconduct complaint was appropriately

³ While not necessary to the disposition of the matter, it is noted that the magistrate judge has continued to issue rulings in this matter. Since Chief Judge Lynch dismissed the original misconduct complaint, the magistrate judge ruled on petitioner's motion for default judgment and one of the defendants filed a motion to dismiss, which is pending.

dismissed as not cognizable, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules for Judicial-Conduct, Rule 11(c)(1)(B). For the reasons stated herein, the order of dismissal issued in Judicial Misconduct Complaint No. 01-15-90005 is affirmed. See Rules for Judicial-Conduct, Rule 19(b)(1).

10/8/15

Date

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a horizontal line extending to the right.

Susan Goldberg, Secretary