

JUDICIAL COUNCIL  
OF THE FIRST CIRCUIT

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IN RE  
COMPLAINT NO. 01-15-90005

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BEFORE  
Lynch, Chief Circuit Judge

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ORDER

ENTERED: MAY 18, 2015

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Complainant, a pro se plaintiff in a civil case, has filed a complaint, under 28 U.S.C. § 351(a), against the magistrate judge who presides over the case. Complainant alleges that the magistrate judge is "not ruling on [complainant's] case and [is] taking a[n] unusual time." Complainant adds that "reliable sources" have stated that the magistrate judge "may have been threatened or pressured . . . ." The misconduct complaint is not cognizable and is frivolous.

"Cognizable misconduct . . . does not include . . . an allegation about delay in rendering a decision or procedural ruling." Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rule 3(h)(3)(B). 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." ). Accordingly, complainant's allegation that the judge has taken too long to rule in her case is 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).

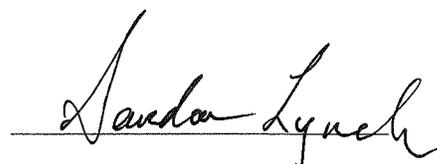
Although not necessary to the disposition of the misconduct complaint, I note that the magistrate judge has issued two orders in the case, including a five page memorandum and order, since the case was first filed about eight months ago. The court has allowed complainant's motion to proceed *in forma pauperis*, ordered service on one defendant and required complainant to show cause why the other defendants should not be dismissed.

Complainant's remaining assertion - that the judge "may have been threatened or pressured" - not does sufficiently allege, let alone provide any evidence of, misconduct. Complainant neglects to offer any "specific facts" or information whatsoever. 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."). Nor do the court's orders issued to date provide any evidence of judicial wrongdoing. Accordingly, the misconduct complaint is dismissed as frivolous. See 28 U.S.C. § 352(b)(1)(A)(iii), and Rules for Judicial-Conduct, Rule 11(c)(1)(C).

For the reasons stated, Complaint No. 01-15-90005 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), respectively.

May 18, 2015

Date

A handwritten signature in cursive script that reads "Sandra Lynch". The signature is written in black ink and is positioned above a horizontal line.

Chief Judge Lynch