

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-12-90022

BEFORE
Lynch, Chief Circuit Judge

ORDER

ENTERED: OCTOBER 31, 2012

Complainant, a pro se litigant, filed a complaint, under 28 U.S.C. § 351(a), alleging that a district judge engaged in misconduct while presiding over complainant's petition for a writ of habeas corpus.

Complainant alleges that the judge violated federal law by not personally signing the order of dismissal entered in complainant's case. Complainant contends that the judge abused the judge's power and effectively acted in a "joint-venture [sic]" with state prison officials by giving "tacit approval" to the complainant's "false imprisonment."

Complainant adds that the judge wrongfully denied complainant's motion for an evidentiary hearing.

The misconduct complaint is baseless and not cognizable. Complainant provides

no evidence of bias or improper judicial motive. The reviewed record - including the misconduct complaint and attachments, complainant's subsequent submissions, as well as the docket, pleadings and orders issued in the case - contain no information suggestive of judicial wrongdoing.

The record indicates that the court dismissed the petition because the complainant failed to submit it in proper form within the time allotted by the court. Complainant filed the motion for an evidentiary hearing over a month after the court had already dismissed the case, and the judge denied this motion as frivolous. There is no evidence whatsoever indicating that the judge was improperly motivated in issuing any of these rulings, had conspired with the state prison officials, or otherwise acted improperly.

As the misconduct complaint is offered without any basis in fact, it 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). Since the complaint is also based only on the complainant's disagreement with the court's rulings in the case, it is dismissed as not cognizable, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(B). Finally, as the judge was under no legal or ethical duty to personally sign the referenced order, this claim is not indicative of judicial misconduct. See 28 U.S.C. § 352(b)(1)(A)(i). See also Rules of Judicial-Conduct, Rule 11(c)(1)(A).

For the reasons stated, Complaint No. 01-12-90022 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).

10/30/12

Date

Sandra L. Lynch

Chief Judge Lynch