

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-09-90023

BEFORE
Lynch, Chief Circuit Judge

ORDER

ENTERED: JANUARY 5, 2010

Complainant, a pro se litigant, filed a complaint of judicial misconduct under 28 U.S.C. § 351(a) against a First Circuit district judge. The complainant alleges misconduct in connection with one of the complainant's multiple civil actions.¹ This complaint is the fourth in a recent series of misconduct complaints filed by this litigant, each against a different judge. The first three of these matters have been dismissed. See Lynch, C.C.J., Order, In Re: Complaint No. 01-09-90015, October 20, 2009, Lynch, C.C.J., Order, In Re: Complaint No. 01-09-90016, October 20, 2009, Lynch, C.C.J., Order, In Re: Complaint No. 01-09-90018, January 5, 2010. Petitions for review that the complainant filed in connection with the first two complaints are pending.

The complainant presently alleges that the judge exhibited bias by improperly denying the complainant's motion for entry of default judgment. The complainant alleges that the judge wrongfully denied the motion on the ground that the defendants had not been properly served but

¹Court records indicate that the complainant has filed nine other civil cases in the district in the past two years.

that proper service had, in fact, been executed.

The complaint is frivolous. The record indicates that, the day after the complainant filed a motion for default, the judge issued an order directing the complainant to file an amended complaint and resubmit summonses against each defendant to be served by a U.S. Marshal. Several days later, the court denied the motion for default stating that the defendants had not been served. The complainant has alleged no facts indicating that either of these orders was motivated by bias or improper animus on the part of the judge. The complaint is based exclusively on the complainant's disagreement with the substance of the court's orders and, as such, is not cognizable. Accordingly, the complaint is dismissed pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii), and 352(b)(1)(A)(iii). See also Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial Misconduct), Rules 11(c)(1)(B), and 11(c)(1)(C).

For the reasons stated, Judicial Misconduct Complaint No.01-09-90023 is dismissed, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii) and 352(b)(1)(A)(iii).

Date

4/25/10

Chief Judge Lynch

