

JUDICIAL COUNCIL  
OF THE FIRST CIRCUIT

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IN RE  
COMPLAINTS NOS. 01-10-90002 - 01-10-90009

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BEFORE  
Thompson, Circuit Judge

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ORDER

ENTERED: JUNE 7, 2010

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Complainant, a pro se litigant, filed a complaint of judicial misconduct, under 28 U.S.C. § 351(a), against six First Circuit Court of Appeals judges, a district judge and a magistrate judge. The complainant alleges judicial wrongdoing in connection with a civil proceeding filed by the complainant and with its appeal.

The complainant charges that the judges have engaged in "illegal, anti-constitutional, treasonous, immoral and unethical violations resulting in the inability of the courts to discharge the duties of the judicial office." The complainant contends that the district judge and the magistrate judge improperly adjudicated the complainant's proceeding.

As to the appellate judges, the complainant asserts that the presiding panel (of three of the appellate judges) wrongfully conferred jurisdiction on the district court, "contrary to law and precedent." The complainant further asserts that these judges were biased against the complainant because of the complainant's race, gender and pro se status, and that they acted to protect the district

judge against the complainant filing suit.

The complainant extends her claims to two of the other appellate judges because they participated in the court's order denying the complainant's petition for rehearing and petition for rehearing en banc. The complainant further states that she directed several motions to one of these two judges who "remained silent [and, thereby] abrogated [the complainant's] rights. . . ."

The complainant next alleges that the last of the charged appellate judges assisted with the "electronic eavesdropping" of the complainant by "hack[ing] into [her] computer," tapping her telephone, and intercepting her mail. The complainant states that this judge used "connections to illegally get [the complainant's] telephone and email set up with a warrantless system to keep tabs on [her] . . . ." Throughout the complaint, the complainant cites miscellaneous federal statutes, cases, regulations, treatises, orders by the Judicial Conference Committee on Conduct and Disability, and the Code of Conduct for United States Judges.

As an initial matter, the complainant presents numerous charges of ethical impropriety by defense counsel in the underlying case which are not cognizable. See 28 U.S.C. § 351 *et. seq.*, and Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules for Judicial Misconduct), Rule 4. Moreover, the complainant's allegations of judicial misconduct are baseless. The complainant presents no evidence of bias, based upon race, gender, or any other factor, by any of the named judges. The reviewed record -- the complaint, the case dockets, as well as relevant pleadings and court orders -- indicates that, in presiding over the original case, the district judge ruled on motions to dismiss which each of the defendants filed over a period of months. The district judge subsequently issued a lengthy order reviewing the facts of the case in light of the governing law before affirming the order of an administrative hearing officer denying the complainant's

remaining claim. There is no evidence of bias or impropriety by either the judge or the magistrate judge in handling the motions to dismiss or any other matters before the court.

There is, likewise, no information in the reviewed record suggesting that the appellate judges were biased against the complainant in considering the appeal. Based upon the parties' briefs and the record in the case, the court affirmed the judgment of the district court, and explained that the complainant could not present new claims on appeal. Thereafter, two of the other charged appellate judges joined with the original panel to deny the complainant's petition for rehearing and petition for rehearing en banc.

The complainant's assertion -- that the last of the charged appellate judges initiated or participated in the improper electronic surveillance of the complainant -- is also presented without any basis in fact. Accordingly, the complaint is dismissed as frivolous pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See Rules for Judicial Misconduct, Rule 11(c)(1)(C).

The claim that one of the appellate judges did not respond to alleged inquiries or motions that the complainant directed to the judge's attention is dismissed as not indicative of misconduct. See 28 U.S.C. § 352(b)(1)(A)(i). See Rules for Judicial Misconduct, Rule 11(c)(1)(A).

This complaint reflects the relatively common practice of litigants who, dissatisfied with a court's substantive rulings and the results of their litigation, claim without any factual basis that the court's decisions were the product of bias or illicit judicial animus. Where, as here, there is no evidence of bias or improper judicial motivation, such allegations -- including the complainant's claim that the courts lacked subject matter jurisdiction -- are not cognizable under the judicial misconduct statute. See 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules for Judicial Misconduct, Rules 11(c)(1)(B), and Rule 3(h)(3)(A) (Cognizable misconduct does not include "an allegation that is

directly related to the merits of a decision or procedural ruling. . . . [A] complaint is not cognizable to the extent that it attacks the merits.").

For the reasons stated, Judicial Misconduct Complaints Nos. 01-10-90002 - 01-10-90009 are dismissed, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(i), 352(b)(1)(A)(ii), and 352(b)(1)(A)(iii).

6-3-10  
Date

O. Rogers Thompson  
Judge Thompson