

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-14-90014

BEFORE
Lynch, Chief Circuit Judge

ORDER

ENTERED: DECEMBER 23, 2014

Complainant, a pro se litigant, filed a complaint, under 28 U.S.C. § 351(a), alleging that a district judge improperly dismissed complainant's civil action for failing to properly serve the defendant. Complainant contends that he relied on the United States Marshals Service to complete service and that the judge "represents an insurmountable conflict of interest." Complainant makes numerous other claims regarding his apparent eviction and an unrelated state court matter that have no relevance to the present misconduct complaint.

Complainant provides no facts indicating that the judge had a conflict of interest or any other improper motive when he dismissed complainant's proceeding. The reviewed record indicates that, prior to dismissing the case, the judge explained to complainant why

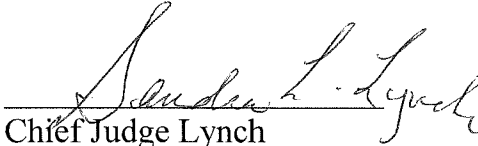
his attempt to serve the defendant was inadequate under the Federal Rules of Procedure and gave complainant multiple opportunities to cure the deficiency. When complainant failed to do so, the judge dismissed the case.

Where, as here, the misconduct complaint derives exclusively from complainant's disagreement with the judge's ruling, it is not cognizable. See 28 U.S.C. § 352(b)(1)(A)(ii), and Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rule 11(c)(1)(B). See also Rules of Judicial-Conduct, 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. An allegation that calls into question the correctness of a judge's ruling . . . , without more, is merits-related."). As the claim that the judge had a conflict of interest is presented without any evidence, the misconduct complaint is dismissed as frivolous, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii), and Rules of Judicial-Conduct, Rule 11(c)(1)(C).

For the reasons stated, Complaint No. 01-14-90014 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).

12/23/14

Date


Chief Judge Lynch