

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINTS NOS. 01-15-90001, 01-15-90006, 01-15-90007, and 01-15-90008

BEFORE
Lynch, Chief Circuit Judge

ORDER

ENTERED: MAY 7, 2015

Complainant, the plaintiff in a civil rights case that was closed a number of years ago, filed a complaint, under 28 U.S.C. § 351(a), against the district judge who presided over the case. The complainant also filed a separate misconduct complaint, under 28 U.S.C. § 351(a), against the three appellate judges who affirmed the district judge's recent ruling in the case. Because these misconduct complaints concern the same underlying matter, they are addressed concurrently. The misconduct complaints are not cognizable and are frivolous.

Complainant alleges that the district judge improperly denied complainant's request to reopen the case and denied the admission of evidence. Complainant contends that the judge wrongfully disallowed the admission of incriminating evidence of police misconduct, both in complainant's lawsuit and in other unidentified cases. Complainant

asserts that the judge "denies" all "incriminating" evidence "by many that have filed lawsuits against various police departments," but "accepts depositions and paperwork from these police departments that are nothing but perjury and fraud." Complainant asks that the judge's cases be reviewed because the judge has dismissed "90 percent" on summary judgment and it is "impossible to obtain" a trial on claims of "police brutality and bodily injury" in the district court.

As to the appellate judges, complainant alleges that, in affirming the district court's ruling denying the complainant's motion for relief from judgment, the judges conspired to violate complainant's civil rights and obstruct justice. Complainant contends that the "statute of limitations can never expire when a summary judgment was awarded [on] . . . nothing but perjury and fraud." Complainant requests an investigation on behalf of the "hundred[s] of thousands wronged by a corrupt and discriminative court system."

Complainant offers no facts in support of his conclusory claims of judicial wrongdoing. The record indicates that, over seven years ago, the judge entered summary judgment for the defendants in complainant's original civil rights case in which complainant had alleged excessive force during an arrest. Last year, complainant filed *pro se* a motion for relief from judgment claiming that he had new evidence that one of the defendants had lied during a deposition taken in complainant's case (concerning the use of excessive force in another unrelated arrest). Complainant continued that, had this defendant not committed perjury, summary judgment would not have been entered against complainant. The judge denied the motion on the grounds that it was untimely

and offered only hearsay evidence that was both inadmissible and irrelevant. An appellate panel, composed of the judges named in complainant's misconduct complaint, affirmed the district judge's ruling for essentially the same reasons.

Complainant provides no facts whatsoever suggesting that the district judge was improperly motivated in denying complainant's motion for relief from judgment, or in issuing any other rulings either in complainant's case or in any other case. Nor does complainant offer any evidence that the appellate judges were improperly motivated in affirming the district court's ruling on the Rule 60 motion. The Court explained that the issue was not just one of timeliness, but that evidence of the defendant's general tendency to use excessive force would not be admissible in complainant's case.

Complainant's objections to the district and appellate court orders issued in his case do not constitute a cognizable misconduct complaint. Accordingly, the misconduct complaints are dismissed, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules for Judicial-Conduct and Judicial-Disability Proceedings (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 there is no evidence that any of the judges engaged in wrongdoing in complainant's district court case, on appeal or in any other proceeding, the complaints are dismissed as frivolous, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules for Judicial-Conduct, Rule 11(c)(1)(C).

For the reasons stated, Complaints Nos. 01-15-90001, 01-15-90006, 01-15-90007, and 01-15-90008 are 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.

5/2/15

Date

Stephen R. Lynch

Chief Judge Lynch