

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-16-90023

BEFORE
Howard, Chief Circuit Judge

ORDER

ENTERED: SEPTEMBER 6, 2016

Complainant, a pro se plaintiff in a civil case that was closed a number of years ago, filed a complaint of misconduct, under 28 U.S.C. § 351(a), against the First Circuit magistrate judge who presided over the case. Complainant alleges that the magistrate judge discriminated against complainant on the basis of disability and, as a result, wrongfully denied complainant's requests to reopen the proceeding.

This is complainant's second baseless misconduct complaint. In 2008, complainant filed a similar complaint against the magistrate judge in connection with the same civil proceeding, as well as against two district judges and three circuit judges in connection with several related unsuccessful proceedings. Judge Selya dismissed that complaint as not cognizable and as baseless, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii) and 352(b)(1)(A)(iii), respectively, noting that the judicial misconduct complaint was

"nothing more than a thinly veiled attempt to reassert [complainant's] dissatisfaction with the court's rulings." See Order, Selya, C.J., In re: Judicial Misconduct Complaint Nos. 01-08-90023, 01-08-90024, 01-08-90025, 01-08-90026, 01-08-90027, and 01-08-90028, Oct. 16, 2008. The Judicial Council affirmed Judge Selya's order of dismissal. See Order, Judicial Council of the First Circuit, In re: Complaint Nos. 01-08-90023 - 01-08-90028, May 26, 2009.

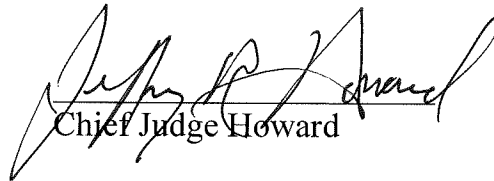
Complainant presently offers no facts in support of his redundant and conclusory claims of judicial wrongdoing. The record indicates that, over seven years ago, the magistrate judge, with the parties' consent, held a two-day bench trial in complainant's case. After the trial, the magistrate judge found that complainant had failed to meet the elements of his claim and entered judgment in favor of the defendant. Complainant then filed multiple motions for reconsideration, letters and documents requesting relief, which the magistrate judge denied. In an order issued several years after the dismissal of the proceeding, the magistrate judge noted that complainant fails to accept the finality of the judgment in the case and barred him from filing further pleadings seeking to reopen the matter.

Review of the complaint and the record of the proceeding suggests that the current misconduct complaint is yet another attempt to reassert complainant's dissatisfaction with the magistrate judge's rulings in complainant's original case. As there are no facts suggesting that the magistrate judge exhibited bias or harbored any illicit animus in connection with either the original order of dismissal or the orders denying complainant's

motions to reopen, the misconduct complaint is dismissed as not cognizable and as frivolous, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii) and 352(b)(1)(A)(iii), respectively. See also Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rules 11(c)(1)(B) and 11(c)(1)(C).

For the reasons stated, Complaint No. 01-16-90023 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), respectively. In addition, complainant should be aware that continued attempts to use the judicial misconduct process to challenge judicial rulings that have been both fully and finally terminated and the subject of previous unsuccessful misconduct complaints will precipitate issuance of an order to show cause in accordance with Rule 10 of the Rules of Judicial-Conduct.

9.6.16
Date


Chief Judge Howard