

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-16-90035

BEFORE
Howard, Chief Circuit Judge

ORDER

ENTERED: FEBRUARY 17, 2017

Complainant, a pro se debtor and litigant in a related adversary proceeding, has filed a complaint of misconduct, under 28 U.S.C. § 351(a), against a First Circuit bankruptcy judge. Complainant alleges that the judge was biased against him while presiding over a hearing and dismissing the adversary proceeding. The misconduct complaint is baseless and not cognizable.

Complainant alleges that the bankruptcy judge failed to "objectively analyze" complainant's claims and was biased against him because he appeared pro se. Complainant further asserts that the judge dismissed the adversary proceeding without taking the time to understand complainant's arguments.

The allegations are without merit. The reviewed record indicates that complainant filed an adversary proceeding in connection with his chapter 13 petition, in which

complainant sought to stay all actions on his purportedly invalid mortgage. Defendant, the servicing agent of the mortgage, filed a motion to dismiss, which complainant opposed. The record further shows that the bankruptcy court held a hearing on the motion to dismiss, during which the judge extensively questioned and heard from both parties. According to the transcript of the hearing, complainant agreed that he failed to name the current mortgage holder in the adversary proceeding, that the central issue in the case had been fully and finally litigated in previous federal proceedings and that any remaining claims were pending in state court. After explaining that all of complainant's claims were either barred by res judicata or lacked subject matter jurisdiction, the bankruptcy judge granted the motion to dismiss.

The reviewed record, including the misconduct complaint and the transcript of the relevant hearing, is devoid of any information suggesting that the judge was biased against complainant. Contrary to complainant's allegations, the transcript demonstrates that the judge gave complainant ample opportunity to present his claims before clearly articulating the basis for the dismissal order. As there is no evidence of bias or other judicial impropriety, the misconduct complaint is dismissed as baseless, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rule 11(c)(1)(D).

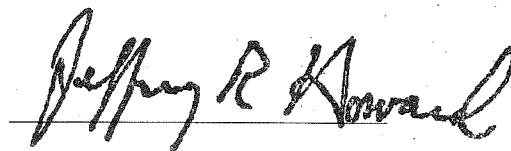
Insofar as the misconduct complaint is based exclusively on complainant's disagreement with the judge's rulings, it is dismissed as directly related to the merits. See 28 U.S.C. § 352(b)(1)(A)(ii) and Rules of Judicial-Conduct, Rule 11(c)(1)(B). See also

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.").

For the reasons stated, Complaint No. 01-16-90035 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)(D), respectively.

2/17/2017

Date

A handwritten signature in black ink, reading "Jeffrey R. Howard", written over a horizontal line.

Chief Judge Howard