

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-18-90025

BEFORE
Howard, Chief Circuit Judge

ORDER

ENTERED: APRIL 17, 2019

Complainant has filed a complaint of misconduct, under 28 U.S.C. § 351(a), against a district judge in the First Circuit in connection with a civil rights case over which the judge presided. Complainant is not a party to this proceeding. The misconduct complaint is baseless and is not cognizable.

Complainant alleges that the judge "deliberate[ly] and intentional[ly]" dismissed the civil rights case in contravention of Congressional intent and based on the judge's "own authoritarianism." Complainant, who was not a party to the case, further alleges that the judge "pretended" to be ignorant of existing law in dismissing the case. Complainant also asserts that the judge exceeded judicial authority and "was grossly insubordinate" in applying the precedent of another circuit rather than that of the Supreme Court of the United States and the First Circuit in dismissing the case. Finally,

complainant alleges that, in dismissing the case, the judge exceeded the court's authority and "strip[ped]" United States citizens of a Constitutional right.

The reviewed record, including the misconduct complaint, the docket of the proceedings, the transcript of the summary judgment hearing, and the court's order dismissing the case, provides no support for complainant's conclusory allegations of judicial wrongdoing. According to the record, a group of individual and organizational plaintiffs sued multiple state officials and a state agency alleging that a state statute was unconstitutional.

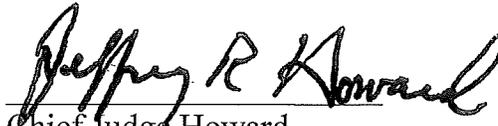
After certain defendants were voluntarily dismissed and one plaintiff withdrew his claims, the remaining plaintiffs and defendants cross-moved for summary judgment. The judge held a hearing on the summary judgment motions and took the matter under advisement. The transcript demonstrates that, at the hearing, the judge heard from both parties in full on a range of issues, including the standard of review and governing precedent; asked questions of both plaintiffs' and defendants' counsel; and took the matter under advisement. In subsequently granting defendants' summary judgment motion and dismissing the case, the judge issued a lengthy and detailed opinion, objectively outlining plaintiffs' and defendants' arguments, explaining the controlling law, and applying the law to the facts. There is no information suggesting that the judge intentionally disregarded established laws and precedent, exceeded the court's authority, or engaged in any other judicial wrongdoing in granting defendants' motion for summary judgment and dismissing the case. Accordingly, the 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).

The complaint is based exclusively on complainant's disagreement with the court's dismissal of the case and, therefore, is not cognizable. See Rules of Judicial-Conduct, Rule 4(b)(1) ("Cognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling If the decision or ruling is alleged to be the result of an improper motive . . . or improper conduct in rendering a decision or ruling, . . . the complaint is not cognizable to the extent that it calls into the question the merits of the decision."). Accordingly, the complaint is also dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(B).

For the reasons stated, Complaint No. 01-18-90025 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.

April 17, 2019
Date


Chief Judge Howard