

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-18-90034

BEFORE
Howard, Chief Circuit Judge

ORDER

ENTERED: JUNE 25, 2019

Complainant, a pro se plaintiff in an employment discrimination case closed more than a decade ago, has filed a complaint, under 28 U.S.C. § 351(a), against a First Circuit magistrate judge. Complainant alleges judicial misconduct in connection with his case, over which the magistrate judge presided. The misconduct complaint is baseless and is not cognizable.¹

Complainant levies confused and generalized allegations of misconduct against the magistrate judge. Complainant appears to allege that the magistrate judge discriminated against him because of his disability, erred in issuing the court's findings of fact and rulings of law, and improperly entered judgment in favor of the defendant and

¹ This is complainant's third misconduct complaint. See 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 (In re: Judicial Misconduct Complaint Nos. 01-08-90023 -- 01-08-90028), In re: Judicial Misconduct Complaint No. 01-16-90023, and infra at p. 3.

denied complainant's requests to reopen his case. Complainant seems to request monetary damages, punitive damages, and lost wages.

As an initial matter, the judicial misconduct complaint procedure does not provide an avenue for awarding damages, as requested by complainant. See 28 U.S.C. § 351, et seq., and Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rules 11, 19, and 20.

The misconduct complaint is meritless. The reviewed record indicates that, nearly fifteen years ago, complainant filed, pro se, an employment discrimination case against his former employer. Following a bench trial, held before the magistrate judge with the parties' consent, the court issued a lengthy decision, with findings of fact and rulings of law, and entered judgment for the defendant. After complainant filed numerous motions, letters, and other documents over the course of nearly a year, the magistrate judge entered an order barring him from filing further pleadings seeking to reopen the case, with which complainant failed to comply.²

The record further shows that complainant also filed two civil rights cases related to his employment discrimination case and the magistrate judge's role therein, both of which the district court dismissed.

² Complainant filed two appeals -- he voluntarily dismissed the first appeal, and the Court of Appeals dismissed the second appeal as untimely. After complainant continued to file numerous requests for relief following the dismissal of both appeals, the Court ordered the Clerk not to accept any further filings; nonetheless, complainant continued to try to file pleadings in both appeals.

Complainant filed his first judicial misconduct complaint in 2008 against the magistrate judge, two district judges, and three circuit judges in connection with all three cases referenced above. See In re: Judicial Misconduct Complaint Nos. 01-08-90023 -- 01-08-90028, and nte. 1, supra. In dismissing that complaint, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii) and 352(b)(1)(A)(iii), Judge Selya determined that "complainant's current compendium of proceedings is nothing more than a thinly veiled attempt to reassert his dissatisfaction with the court's rulings." See Order, Selya, C.J., In re: Judicial Misconduct Complaint Nos. 01-08-90023 -- 01-08-90028, October 16, 2008, at p. 4. The Judicial Council affirmed Judge Selya's order of dismissal. See Order, Judicial Council of the First Circuit, In re: Judicial Misconduct Complaint Nos. 01-08-90023 -- 01-08-90028, May 26, 2009.

Complainant filed a second misconduct complaint against the magistrate judge in connection with his employment discrimination case. See In re: Judicial Misconduct Complaint No. 01-16-90023, and nte. 1, supra. I dismissed this "redundant" complaint, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii) and 352(b)(1)(A)(iii), and warned complainant that the filing of further repetitive misconduct complaints challenging judicial rulings that have been fully and finally terminated would precipitate an order to show cause, pursuant to Rule 10 of the Rules of Judicial-Conduct. See Order, Howard, C.C.J., In re: Judicial Misconduct Complaint No. 01-16-90023, September 6, 2016. The First Circuit Judicial Council affirmed the order. See Order, Judicial Council of the First Circuit, In re: Judicial Misconduct Complaint No. 01-16-90023, February 7, 2017.

The instant misconduct complaint is simply another attempt by complainant to reassert his objections to the magistrate judge's rulings in his employment discrimination case that has been fully and finally terminated for over a decade. Complainant provides no additional information to undermine the previous orders dismissing the same baseless allegations of judicial misconduct. Accordingly, the misconduct complainant 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 of Judicial-Conduct, Rules 11(c)(1)(B) and 11(c)(1)(C).

For the reasons stated, Complaint No. 01-18-90034 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.

June 25, 2019
Date


Chief Judge Howard

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-18-90034

BEFORE
Howard, Chief Circuit Judge

SHOW CAUSE ORDER

ENTERED: JUNE 25, 2019

You have now filed three judicial misconduct complaints, each of which has been found to be patently without merit. These complaints are Nos. 01-08-90023, 01-08-90024, 01-08-90025, 01-08-90026, 01-08-90027, and 01-08-90028¹; No. 01-16-90023; and No. 01-18-90034.

Pursuant to the order of delegation issued by the Judicial Council on May 4, 2016 and Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), you are directed to show cause why an order should not be entered by the Judicial Council precluding you from filing any new judicial misconduct complaints without prior permission of the Judicial Council. If you oppose such an order,

¹ Complaint Nos. 01-18-90023 -- 01-18-90028 was filed against six judges. See Rules for Judicial-Conduct and Judicial-Disability Proceedings, Rule 8(a); and id. Commentary on Rule 8 (providing for "separate docket numbers for each subject judge.").

you must file a written opposition with the Office of the Circuit Executive, John Joseph Moakley United States Courthouse, 1 Courthouse Way, Suite 3700, Boston, Massachusetts 02210, which must be received within 42 days of the date of this order.

Until this show cause proceeding is resolved, any new judicial misconduct complaint that you file will be held in abeyance. If an order of preclusion is entered, any such new complaint will be returned to you without prejudice to your right to resubmit it after obtaining prior permission from the Judicial Council. This order does not affect your rights under the Rules of Judicial-Conduct in any pending matters.

June 25, 2019
Date



Chief Judge Howard
for the First Circuit Judicial Council