

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINTS NOS. 01-19-90018, 01-19-90025 -- 01-19-90027,
and 01-19-90045 -- 01-19-90047

BEFORE
Thompson, Circuit Judge

ORDER

ENTERED: DECEMBER 19, 2019

Complainant, a pro se litigant, has filed three complaints under 28 U.S.C. § 351(a) against four appellate judges in the First Circuit.¹ Complainant alleges judicial misconduct in connection with a number of his appeals over which the judges presided. The misconduct complaints are baseless and are not cognizable.

Complainant presents diffuse claims against multiple judges, a number of whom are no longer on the bench or identified as subjects of the pending complaints. As the judicial misconduct complaint process only covers current federal judges who are properly identified in a complaint, these other claims are not addressed. See 28 U.S.C. §

¹ Complaint No. 01-19-900018 is against one circuit judge (Judge No. 1); Complaint Nos. 01-19-90025 -- 01-19-90027 is against Judge No. 1 and against two other circuit judges (Judge No. 2 and Judge No. 3); and Complaint Nos. 01-19-90045 -- 01-19-90047 is against Judges Nos. 2 and 3, as well as a fourth circuit judge (Judge No. 4). In 2000, after filing three baseless misconduct complaints against a then district court judge, the Judicial Council precluded complainant from filing any further misconduct complaints against that judge arising from the same case that was the subject of the complaints. See Order, Judicial Council for the First Circuit, In Re: Judicial Misconduct Complaint No. 289, December 6, 2000. Complainant's effort to show cause why this order of preclusion should be lifted was unsuccessful. See Order, Judicial Council for the First Circuit, In Re: Judicial Misconduct Complaint No. 289, April 9, 2002.

351, *et. seq.*, and Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rule 1(b). See also Rules of Judicial-Conduct, Rule 3(h) ("Subject judge' means a covered judge, as described in Rule 1(b), who is the subject of a complaint. ").²

Complainant alleges that the circuit judges have conspired to undermine complainant's attempts to vindicate his rights asserted both in his underlying litigation, which complainant commenced over 20 years ago in federal district court, and in complainant's related unsuccessful misconduct complaints against the district court judge who presided over complainant's original proceeding.³ See note 1, *supra*. In this vein, complainant reiterates his original allegations challenging the validity and results of a federal agency's audit of complainant's school, see note 3, *supra*, and contends that Judges Nos. 2, 3, and 4 conspired to violate complainant's "Civil, Constitutional and Human rights" when they affirmed the district court's decision denying complainant's motion for relief from judgment in his original case. Complainant maintains that, in this appeal, he had "produced new overwhelming . . . evidence" that had emerged in another district court case to which complainant was not a party.

² Complainant includes allegations of wrongdoing against the United States Attorneys and others, which are also not cognizable. See 28 U.S.C. § 351, *et. seq.*, and Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rule 1(b).

³ Complainant has filed at least 15 civil proceedings in a federal district court and over 30 unsuccessful appeals in the First Circuit Court of Appeals, originating with complainant's claims challenging the constitutionality of an audit conducted of a school owned by complainant, and imposing fines and other sanctions. Over time, complainant's claims expanded to include all of the federal judges who ruled against him in the district and appellate courts, and in the related misconduct complaints against the presiding district judge, see note 1, *supra*, as well as others whom complainant alleged improperly denied complainant's requests to publicize the conspiracy to conceal his claims.

Complainant further asserts that the circuit judges "condoned" the district judge's "corrupt" conduct when they denied a petition for mandamus that he filed.⁴ Likewise, complainant objects to the denial, by Judges Nos. 1, 2, and 3, of his petition for rehearing and motion for recusal filed in the appeal of complainant's civil proceeding against a number of media outlets and First Circuit judges.

Complainant also alleges that Judge No. 1 "concealed" complainant's previous misconduct complaints against the district judge, see note 1, *supra*, and that this "cover[] up" "forced" complainant to file suit against other appellate and district judges.

Complainant further objects to Judge No. 3's ruling staying a case in which complainant intervened. Complainant argues that his "timely claims in [this case] . . . transpired and evolved before the stay" Complainant surmises that the validity of his claims has been overlooked because of his nationality and concludes that the circuit judges have violated their "ethical, fiduciary and ministerial duties" and complainant's constitutional rights.

The misconduct complaints are baseless and are simply another attempt by complainant to challenge judicial rulings in proceedings that have been fully and finally terminated for years. Complainant does not present any facts or evidence indicating that any of the subject judges exhibited bias against complainant, either due to complainant's nationality, his pro se status, or for any other reason. Nor is there any evidence that any

⁴ Only Judge No. 4 was on the panel that issued this ruling (denying complainant's petition for writ of mandamus following denial of his motion to intervene in order to seek the recusal of the district judge in a case to which complainant was not a party); the other two judges who ruled on the matter are not subjects of the pending complaints.

of the judges conspired to interfere with complainant's claims. To the contrary, the voluminous record of complainant's litigation demonstrates that, for over 20 years, complainant has been accorded a full and fair opportunity to present his claims. See note 3, *supra*. The same holds true for the appellate cases complainant references in the present misconduct complaints. In the appeal of his underlying case, the court allowed complainant's motion to proceed in forma pauperis and to seal his reply brief, explained the legal bases for upholding the district court's denial of complainant's motion for relief from judgment, and allowed complainant's motion for leave to file an oversized petition for rehearing. More recently, the court issued judgment affirming the district court's rejection of complainant's attempt to resurrect allegations that had been foreclosed and explaining that dissatisfaction with judicial rulings does not, alone, provide a valid basis for disqualification. Nor does the court's order staying the referenced appeal demonstrate misconduct or improper judicial motive.

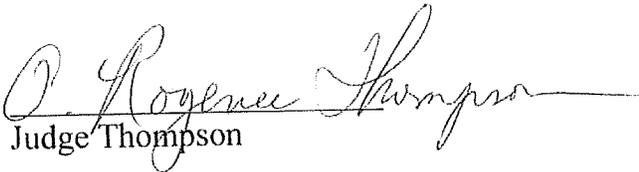
As the misconduct complaints and the reviewed record provide no support for complainant's conclusory allegations of bias or other wrongdoing by any of the subject judges, the complaints are dismissed as baseless, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules for Judicial-Conduct, Rule 11(c)(1)(D).

Where, as here, there is no evidence of bias or improper motive, complainant's objections to the courts' orders are 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, including a failure to recuse. If the decision or ruling is alleged to be the result of an improper motive . . . the complaint is not cognizable to the

extent that it calls into question the merits of the decision."). The same holds true for complainant's objection to Judge No. 1's order(s) dismissing complainant's misconduct complaints. See id., Commentary on Rule 4 ("[A] complaint challenging the correctness of a chief judge's determination to dismiss a prior misconduct complaint would be properly dismissed as merits-related . . ."). Accordingly, the complaint is 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. 01-19-90018, 01-19-90025 -- 01-19-90027, and 01-19-90045 -- 01-19-90047 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)(D).

December 19, 2019
Date


Judge Thompson