

JUDICIAL COUNCIL  
OF THE FIRST CIRCUIT

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IN RE  
COMPLAINT NOS. 01-19-90030, 01-19-90031, AND 01-19-90032

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BEFORE  
Torruella, Circuit Judge

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ORDER

ENTERED: MAY 7, 2020

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Complainant, a pro se litigant, has filed a complaint of misconduct, under 28 U.S.C. § 351(a), against three appellate judges in the First Circuit. Complainant alleges judicial misconduct in connection with the appeal of his civil case over which the subject judges presided. The misconduct complaint is baseless and is not cognizable.

Complainant alleges that the judges incorrectly determined complainant's domicile when they affirmed the district court's order denying complainant's motion to reconsider the dismissal of his civil case for lack of jurisdiction. Complainant also asserts that the judges cited to "invalid caselaw" in the judgment issued in the case. Complainant contends that the subject judges are "incompetent," suffer from a "cognitive disability[.]" and improperly treated complainant as "incompetent." Complainant implies that the judges delayed resolution of his case by incorrectly determining his domicile.

The reviewed record, including the misconduct complaint, the dockets of the proceedings, and the courts' orders, provides no support for complainant's conclusory allegations of disability, improper treatment, delay, or other wrongdoing by the subject judges. The record indicates that complainant filed a civil case against numerous individuals and entities alleging, in part, slander and malpractice. The district court dismissed the case sua sponte for lack of subject matter jurisdiction, explaining that diversity jurisdiction was absent because complainant and two defendants were citizens of the same state, and there was no cognizable federal question alleged. Complainant filed a motion for reconsideration of the order of dismissal, which the district court denied.

The record further indicates that complainant appealed the order denying his motion for reconsideration. Complainant timely filed his brief, defendants did not respond, and the appeal was submitted on the briefs to a panel comprised of the subject judges. Complainant sent multiple letters to the Court of Appeals requesting information on the duration and disposition of the appeal to which the Clerk of Court responded, explaining that complainant would be notified upon the Court's decision. The Court affirmed the district court's denial of the motion for reconsideration, explaining that diversity jurisdiction was absent. Complainant filed a motion for reconsideration, which the Court construed as a motion for panel rehearing and denied.

Complainant's allegations of judicial disability, improper motivation, or mistreatment of complainant are presented without any basis in fact. The Court clearly

explained the basis for its ruling upholding the dismissal of the case for lack of jurisdiction. The complaint amounts to nothing more than a challenge to this ruling. Therefore, the complaint is dismissed as baseless and as not cognizable, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(iii) and 352(b)(1)(A)(ii), respectively. See also Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rules 11(c)(1)(D), 11(c)(1)(B), and 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 . . . the complaint is not cognizable to the extent that it calls into question the merits of the decision."). The same is true for complainant's allegations of delay. See id. Rule 4(b)(2) ("Cognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive. . . .").

For the reasons stated, Complaint Nos. 01-19-90030, 01-19-90031, and 01-19-90032 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.

May 7, 2020  
Date

  
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Juan R. Torruella  
U.S. Circuit Judge