

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-22-90003

BEFORE
Barron, Chief Circuit Judge

ORDER

ENTERED: JANUARY 20, 2023

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

Complainant alleges that, in dismissing complainant's civil case, the district judge committed "fraud on the court[.]" by making "faulty conclusions," failing to apply applicable caselaw, ignoring facts set forth in the complaint, and erroneously determining that defendants were immune from an action seeking monetary damages. Complainant asserts that the dismissal was improper because he provided the district court with "factual information," "solid arguments," and evidence that met the applicable burden of proof. Complainant requests that the Court of Appeals "reconsider" his underlying civil case and remand it to the district court with the direction that the case be "filed and heard."

As an initial matter, the judicial misconduct complaint procedure does not provide an avenue for seeking appellate review or relief in a case, including remand to the district court. See 28 U.S.C. § 351, et seq., and Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rule 11.

The reviewed record, including the misconduct complaint and the docket of the relevant proceeding, provides no basis for complainant's claim of judicial misconduct. According to the record, complainant filed an action against a public university and the state (collectively defendants), alleging, inter alia, discrimination and retaliation arising from complainant's disability, and a motion for leave to proceed in forma pauperis (IFP). In a multiple-page order, the district judge allowed the motion and ordered complainant to file an amended complaint curing enumerated deficiencies or the district court would dismiss the action, pursuant to 28 U.S.C. § 1915(e)(2)(B), for failure to state a claim upon which relief can be granted.

Thereafter, complainant filed an amended complaint. In a multiple-page order, the district judge considered complainant's amended allegations and dismissed the complaint, without prejudice, on the grounds that defendants were immune from suit for monetary damages in federal court under the Eleventh Amendment to the United States Constitution and that the complaint failed to state a claim upon which relief can be granted.

Months later, complainant filed another amended complaint against defendants, which the district judge treated as a motion to amend the dismissed complaint and denied.

The misconduct complaint is meritless. Complainant provides and the record includes no information to support the conclusory allegations that the district judge engaged in fraud or in any other wrongdoing. The record indicates that the district judge identified deficiencies in complainant's initial pleading, permitted complainant the opportunity to cure these deficiencies by means of an amended complaint, and provided clear reasoning for the court's subsequent dismissal in a multiple-page order.

Complainant's allegations - that the judge ignored facts, misapplied the law, and reached faulty conclusions - derive exclusively from complainant's disagreement with the substance of the court's orders. As such, the complaint 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 . . . the complaint is not cognizable to the extent that it calls into question the merits of the decision."); and id. Commentary to Rule 4 ("Any allegation that calls into question the correctness of an official decision or procedural ruling of a judge — without more — is merits-related."). Accordingly, the complaint is dismissed as not cognizable and as baseless, pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii) and (iii), respectively. See also Rules of Judicial-Conduct, Rules 11(c)(1)(B) and (D).

For the reasons stated, Complaint No. 01-22-90003 is dismissed pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii) and (iii). See also Rules of Judicial-Conduct, Rules 11(c)(1)(B) and (D).

January 20, 2023

Date



Chief Judge Barron