

JUDICIAL COUNCIL  
OF THE FIRST CIRCUIT

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IN RE  
COMPLAINT NO. 01-22-90030

BEFORE  
Barron, Chief Circuit Judge

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ORDER

ENTERED: JUNE 30, 2023

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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 matter over which the district judge presided. The misconduct complaint is baseless and is not cognizable.

Complainant alleges that the subject judge lacked jurisdiction to dismiss complainant's case against a state court judge on the ground of absolute judicial immunity and that the judge "create[d] jurisdiction" to rule in the state judge's favor. Further, complainant asserts that the subject judge used "deceiving tactics" in the order dismissing complainant's proceeding, as the governing case law that both courts should have relied upon established that the state court lacked personal and subject matter jurisdiction to enter the judgment. Complainant concludes that the judge had no authority to validate the

state court's "void" judgment and did so "simply to protect a fellow judge, which clearly constitutes judicial misconduct and discrimination against [complainant]."<sup>1</sup>

The reviewed record, including the misconduct complaint and the docket of the relevant proceeding, provides no basis for complainant's allegations of judicial misconduct. According to the record, complainant filed a civil rights action against a state court judge, alleging, inter alia, that the judge did not have personal or subject matter jurisdiction and violated complainant's constitutional rights when entering a judgment against her. Defendant filed a motion to dismiss the civil complaint with prejudice, arguing, in part, that the action was barred by judicial immunity, res judicata, and the applicable statute of limitations. Complainant opposed the motion to dismiss, arguing that, because state law and precedent supported her defense in the state court case and defendant lacked jurisdiction to enter a judgment to the contrary, defendant did not have immunity in the instant action. The judge entered an order granting defendant's motion to dismiss on the ground of absolute judicial immunity and explaining that the precedent on which complainant relied in arguing that the state court lacked jurisdiction had been overruled.

The misconduct complaint is baseless. Complainant provides and the record includes no information to support the allegation that the judge used "deceiving tactics," acted "to protect" the state court judge, discriminated against complainant, or was

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<sup>1</sup> Complainant also includes misconduct allegations against the state court judge. However, the governing statute and the Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct) provide for the filing of complaints against federal judges only. See 28 U.S.C. § 351, and Rules of Judicial-Conduct, Rules 1 and 3(h). Therefore, these allegations are not addressed.

otherwise improperly motivated in presiding over complainant's case. The court's dismissal of the action reflected the judge's reasoning based exclusively on the record in the case. See supra p. 2. Therefore, 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).

As there is no evidence of improper judicial motivation, complainant's objections to the judge's order of dismissal, including both its conclusion and reasoning, are not cognizable. See 28 U.S.C. § 352(b)(1)(A)(ii), and Rules of Judicial-Conduct, Rule 11(c)(1)(B); see also 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 . . . the complaint is not cognizable to the extent that it calls into question the merits of the decision.") and Commentary on 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, 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. 01-22-90030 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), respectively.

June 30, 2023

Date

  
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Chief Judge Barron