

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-24-90007

BEFORE
Barron, Chief Circuit Judge

ORDER

ENTERED: MAY 14, 2025

Complainant, a former criminal defendant, has filed a complaint under 28 U.S.C. § 351(a) against a district judge in the First Circuit. Complainant alleges that the judge engaged in judicial misconduct in presiding over his criminal proceeding.¹ The misconduct complaint is baseless and not cognizable.²

Complainant alleges that the judge conspired with the federal public defender to falsely arrest and murder complainant, violated numerous federal laws and constitutional amendments, and engaged in crimes, such as assault, battery, and damage to personal property.³ Complainant asserts that there were "no grounds" or records to support the

¹ Complainant also lists on his complaint form two appellate cases that he filed in a different federal circuit, arising from civil cases that he filed in a district court in that circuit. Also, at one point in the complaint and in an apparent typographical error, complainant refers to the subject judge's conduct in a district court case filed in the First Circuit in which neither the subject judge nor complainant had any involvement. As none of these cases involve the subject judge, they are not addressed.

² This is complainant's second misconduct complaint. In his previous misconduct complaint, he alleged judicial misconduct on the part of the same subject judge in connection with the same case underlying the present matter. See Judicial Misconduct Complaint No. 01-20-90009. The complaint was dismissed pursuant to 28 U.S.C. §§ 352(b)(1)(A)(i), (ii), and (iii). See Howard, C.C.J., Order, In Re: Judicial Misconduct Complaint No. 01-20-90009 (February 1, 2021).

³ Complainant's allegations against the federal public defender are not addressed as 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).

judge's order that complainant undergo a psychological exam and that it was an abuse of discretion for the judge to determine that complainant was incompetent to stand trial. He further alleges that the judge had complainant committed to a mental health facility without a court hearing. Complainant asserts that the judge erroneously did not expunge complainant's criminal record and denied "everything" in his criminal case, including his requests for discovery.

The reviewed record, including the misconduct complaint and the docket of the relevant proceeding, provides no evidence to support complainant's allegations of judicial wrongdoing. The record indicates that complainant was charged in a criminal complaint and the federal public defender was appointed to represent him. Complainant, through his attorney, filed a motion requesting that the court order him to undergo a psychiatric evaluation to determine whether he was competent to stand trial and that he be provided with necessary treatment until he is stable. The judge held a hearing at which complainant's counsel explained the basis for requesting the competency evaluation and complainant argued against it; the next day, the judge ordered that complainant undergo a psychiatric evaluation.

Complainant, through counsel, filed a motion that the court transfer him to a federal medical center and schedule a competency hearing in light of the opinion of a Bureau of Prisons psychologist that complainant was not competent to stand trial, in response to which the judge ordered that complainant be transferred to a federal medical center and held a status conference at which complainant's counsel explained that complainant was undergoing a mental health evaluation. Meanwhile complainant filed

pro se numerous motions, including but not limited to, motions for the judge's recusal, discovery, and appointment of counsel, all of which the judge denied.

After the court received copies of complainant's medical evaluation and records, the judge held a competency hearing at which the government's expert witness testified that she had evaluated complainant and that complainant was not competent to stand trial, complainant cross-examined the witness and argued that he was competent to stand trial, complainant's counsel and the government agreed that the criminal complaint should be dismissed, and the judge declared complainant incompetent to stand trial. Subsequently, the judge entered an order stating that complainant was declared incompetent to stand trial, explaining that there was no evidence to support a finding that complainant would be a danger to the community, dismissing the criminal complaint, and releasing complainant.

Following the dismissal of the case, complainant continued to file pro se motions including, but not limited to, motions to expunge his criminal record. Complainant's request that his record be expunged was referred to a magistrate judge, who entered a report and recommendation that the request be denied, and complainant filed an objection to the report and recommendation. Complainant's request to expunge his record is pending.

The complaint is meritless. There is no evidence that the judge conspired against complainant to arrest or harm him or for any other reason, committed any crimes, violated any laws, or otherwise engaged in any judicial wrongdoing in presiding over his case. According to the record, the judge ultimately dismissed the criminal charges against

complainant, after holding a competency hearing at which an expert witness testified, complainant cross-examined the witness and addressed the court, and the judge found complainant incompetent to stand trial. See supra p. 3. Accordingly, 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).

Where, as here, there is no evidence of improper judicial motive, complainant's objections to the judge's rulings including, but not limited to, the determination that complainant was incompetent to stand trial and the orders dismissing the criminal complaint against him, transferring him to a federal medical center, and denying his pro se motions, 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."), and 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."). To the extent complainant asserts the judge has delayed in ruling on complainant's motion to expunge his criminal record, the allegation is also not cognizable. 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 in delaying a particular decision or habitual delay in a significant number of unrelated cases."). 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. 01-24-90007 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).

As this is complainant's second baseless judicial misconduct complaint, complainant is warned that the filing of another baseless or repetitive complaint may precipitate issuance of an order to show cause in accordance with Rule 10 of the Rules of Judicial-Conduct. See Rules of Judicial-Conduct, Rule 10(a) ("A complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints . . .").

May 14, 2025
Date



Chief Judge Barron