UNITED STATES COURTS FOR THE FIRST CIRCUIT
OFFICE OF THE CIRCUIT EXECUTIVE
JOHN JOSEPH MOAKLEY UNITED STATES COURTHOUSE
1 COURTHOUSE WAY - SUITE 3700
BOSTON, MA 02210

SUSAN J. GOLDBERG
CIRCUIT EXECUTIVE
617-748-9614

FLORENCE PAGANO
DEPUTY CIRCUIT EXECUTIVE
617-748-9376

December 11, 2017

Walter Tuvell
836 Main Street
Reading, MA 01867

Re: Complaint Nos. 01-16-90036 - 01-16-90041

Dear Mr. Tuvell:

I have enclosed a copy of the Order issued by the Judicial Council of the First Circuit, dated December 11, 2017, affirming the dismissal of Judicial Misconduct Complaint Nos. 01-16-90036 - 01-16-90041. As the Council has voted to deny your Petition for Review, the proceeding is now closed. See Rules for Judicial-Conduct and Judicial-Disability Proceedings, Rule 19(e).

Sincerely,

James Nagelberg
Administrative Attorney

Enclosure

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NOS. 01-16-90036 - 01-16-90041

BEFORE

Laplante, McConnell, Hillman, Delgado-Hernández, and Levy, District Judges

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ORDER

ENTERED: DECEMBER 11, 2017

Petitioner, a litigant, has filed a petition for review of Judge Barron's order dismissing his complaint, under 28 U.S.C. § 351(a), against a First Circuit district judge and five appellate judges. Petitioner alleged judicial misconduct in connection with a civil matter over which the district judge presided and with petitioner's unsuccessful appeal of the district court proceeding. Judge Barron dismissed the complaint as baseless and not cognizable.

Petitioner originally alleged that the district judge was biased against petitioner because of his cause of action, "wrongfully lied" and violated local rules on summary judgment, and violated the Code of Conduct for United States Judges (Code of Conduct), as well as numerous federal criminal statutes. Petitioner lodged the same allegations

against the appellate panel that summarily affirmed the district judge's decision and the circuit judges that denied his petition for panel rehearing and rehearing en banc.

In his order dismissing the complaint, Judge Barron first explained that, although a violation of the Code of Conduct may inform consideration of a judicial misconduct complaint, a violation of the Code does not necessarily constitute judicial misconduct under the statute. See Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Commentary on Rule 3.

Judge Barron then observed that the record contained no evidence supporting petitioner's conclusory allegations that the subject judges violated the Code of Conduct, were biased, or engaged in any other judicial wrongdoing. Judge Barron determined that the district court's lengthy memorandum and order granting summary judgment and dismissing petitioner's claims demonstrated a thorough review of petitioner's case. Judge Barron also explained that petitioner's allegation that the district judge violated a local rule, even if true, would not constitute cognizable misconduct without evidence of improper judicial motive. Judge Barron further observed that the appellate record contained no factual support for petitioner's misconduct claims against the circuit judges. Judge Barron explained that, in the absence of evidence of improper judicial motive, the complaint was based entirely on petitioner's disagreement with the district and appellate courts' rulings in petitioner's underlying case. Accordingly, Judge Barron dismissed the

complaint as not cognizable and baseless. See 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).

In the petition for review, petitioner asserts that Judge Barron's order is indicative of "illicit federal court bias" against petitioner's underlying cause of action. Petitioner claims that Judge Barron failed to adequately review his misconduct complaint and "blindly" accepted "the falsified facts promulgated by the District and Appellate Judges" in the underlying case. He further asserts that Judge Barron's order is erroneous.

Petitioner requests that this petition be referred to the Judicial Conference Committee on Judicial Conduct and Disability (Committee on Conduct and Disability) because he has accused all active First Circuit appellate judges of judicial misconduct and because all other judges within the First Circuit are "suspect as well" due to their relationships with the appellate judges.

As an initial matter, the judicial misconduct procedure does not provide a mechanism for referral of this petition to the Committee on Conduct and Disability. See 28 U.S.C. § 351, *et seq.*, and Rules of Judicial-Conduct, Rule 21 (enumerating specific instances when a petitioner may seek review by the Committee on Conduct and Disability of a judicial council order).

The petition for review is meritless. Petitioner provides no evidence of improper judicial motive or other wrongdoing that would undermine Judge Barron's determinations or suggest that Judge Barron was biased in reviewing the misconduct complaint. The

reviewed record demonstrates that, despite petitioner's assertion to the contrary, Judge Barron thoroughly reviewed both the misconduct complaint and the underlying record of petitioner's litigation. In doing so, the Judge correctly determined that petitioner's allegations derive exclusively from his disagreement with the substance of the courts' orders denying his requested relief. Therefore, Judge Barron appropriately dismissed the complaint as not cognizable and as baseless. See 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), and Commentary on Rule 3 ("Any allegation that calls into question the correctness of an official action of a judge without more is merits-related. . . . Thus, a [claim] challenging the correctness of a chief judge [designee]'s determination to dismiss a . . . misconduct complaint would be properly dismissed as merits-related.").

For the reasons stated herein, the order of dismissal issued in Judicial Misconduct Complaint Nos. 01-16-90036, 01-16-90037, 01-16-90038, 01-16-90039, 01-16-90040, and 01-16-90041 is affirmed. See Rules of Judicial-Conduct, Rule 19(b)(1).

12/11/2017
Date

Susan Goldberg, Secretary