

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-21-90031
JCP No. 08-21-90032

In re Complaint of John Doe¹

This is a judicial complaint filed by civil litigant (“complainant”) against two United States district judge who were, at different times, assigned to the complainant’s case.

The complainant alleges that the first district judge (1) “insinuated [that the complainant] was a prisoner” and “directed, sought[,] and encouraged the defendants to have [the complainant] arrested so the arrest could be used as the excuse for [a] dismissal and delays” in denying the complainant’s motion for an injunction; (2) used an order to show cause “in coordination with the defendants” and the second district judge to have the complainant arrested in “retaliation against [the complainant] for [the complainant] suing judges”; (3) favored the defendants, who were the judge’s “friends,” by (a) “granting a stay of answer by defendants (federal judges sued in their individual capacity,” (b) granting the state defendants’ motion to seal and redact certain documents, (c) “direct[ing] the clerk to withhold . . . entering entries of default and direct[ing] the rigging of the docket (redaction) when the rules do not allow . . . this”; (4) failed to recuse despite labeling the complainant’s letter as “threatening” in the order to show cause; (5) “did not report the conduct of the judges named in the [civil] complaint”; (6) failed to timely adjudicate the complainant’s motions and

¹Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit, the names of the complainant and the judicial officer complained against are to remain confidential, except in special circumstances not here present.

permitted a 15-month delay; and (7) improperly declined to stay all state cases and improperly denied declaratory relief. The complainant maintains that the first district judge's actions were "harassing, retaliatory[,] and oppressive" and done with an improper motive to "save [the judge's] friends and have [the complainant] arrested."

The complainant alleges that the second district judge (1) failed to report the first judge's "abusive conduct" and "the conduct of the judges named in the complaint" despite his "full awareness of the disqualifying conduct of his colleagues and 'friends'"; (2) improperly referred to the complainant's filings as "abusive"; (3) failed to adjudicate the complainant's civil complaint once the case was reassigned to the judge for the purposes of harassing, retaliating against, and oppressing the complainant; (3) acted outside the judge's lawful authority by giving relief to a person who was not a party to the lawsuit; (4) made "snarky comments" that the complainant could appeal in order to "oppress[]" the complainant; (5) disregarded the complainant's Freedom of Information Act requests to "hide the outside conduct of the defendants"; (6) colluded with other judges to have the complainant "shut down"; and (7) purposefully dismissed the complainant's lawsuit on the same day as an "illegal foreclosure matter . . . was scheduled in the state court." The complainant asserts that the second district judge's conduct was done with the improper motive to "save [the judge's] friends and have [the complainant] arrested" and for the "malicious purpose[]" of "giv[ing] cover to [the first judge's] illegal conduct."

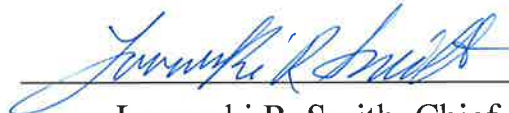
Having reviewed the record,² including all complained-of orders and actions by the district judges, I conclude that to the extent that the judicial complaint's allegations challenge the district judges' various orders, they must be dismissed as "directly related to the merits of a decision or procedural ruling." 28 U.S.C. § 352(b)(1)(A)(ii); *accord* J.C.U.S. Rules 4(b)(1), 11(c)(1)(B). To the extent the judicial complaint alleges an improper motive and collusion by the district judges, the

² See Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b).

allegations are purely speculative and must be dismissed as “lacking sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); *accord* J.C.U.S. Rule 11(c)(1)(C), (D).

Accordingly, the judicial complaint is dismissed.

May 5, 2022



Lavenski R. Smith, Chief Judge
United States Court of Appeals
for the Eighth Circuit