

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-21-90040

JCP No. 08-21-90071

In re Complaint of John Doe¹

These are judicial complaints filed by an inmate (“complainant”) against the United States district judge assigned to the complainant’s habeas case and a United States magistrate judge assigned to the complainant’s criminal case.

The complainant alleges that the district judge (1) failed to report to the appropriate agency certain criminal misconduct—police officers’ alleged planting of evidence—after receiving the complainant’s habeas filing; (2) “refus[ed] to review for criminal and constitutional right(s) issue(s) under the Sixth Amendment ‘ineffective assistance of counsel’”; (3) “refused to review another guaranteed constitutional right . . . under the [Fifth, Eighth, and Fourteenth] Amendment[s]”; (4) retaliated against the complainant for previously filing two judicial misconduct complaints and one civil rights action against the district judge; (5) “attempt[ed] to prevent the [complainant] from revealing criminal and civil rights violation[s] to the U.S. Attorney for investigation” by ordering the clerk to strike from the record the complainant’s letter to the government because it was “not an appropriate filing in the case”; (6) abused its power by directing the clerk of court not to accept any additional pleadings from the complainant in the case without further order of the court; and (7) demonstrated “[b]ias, impartiality[, and prejudice” in denying the complainant’s

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.

motion to compel the government to produce certain documents. The complainant has also filed various complaint supplements seeking to appeal certain decisions of the district judge.

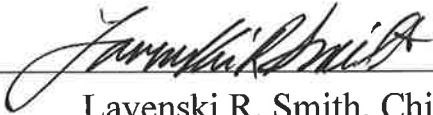
The complainant alleges that the magistrate judge (1) failed to record or keep mandatory records of a hearing on the complainant's motion to substitute attorney, which has prevented the complainant "from revealing constitutional rights issues by his attorney(s)"; (2) erroneously permitted the complainant's former attorney "to wave [the complainant's] right to pretrial motions without . . . consent," resulting in a violation of the complainant's due process rights; (3) violated the complainant's Sixth Amendment rights by denying the complainant's request to proceed pro se; and (4) "knowingly, wantonly, [and] maliciously gathered individually or with another to deprive the [c]omplain[ant] from revealing criminal and constitutional right issues."

Having reviewed the record,² including all complained-of orders and actions by the district judge and magistrate judge, I conclude that to the extent that the judicial complaints' allegations challenge the district judge's and magistrate judge's decisions, 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 complaints allege that the district judge and magistrate judge showed bias, prejudice, or engaged in other improper conduct, the allegations are "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 complaints are dismissed.

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

5/9/22, 2022



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