

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-22-90082

In re Complaint of John Doe¹

This is a judicial complaint brought by an inmate (“complainant”) against the United States district judge who denied the complainant’s second motion for compassionate release. The judicial complaint alleges that in the motion, the complainant had “requested that [the district judge] recuse . . . from the matter due to several past issues of prejudice and bias against [the complainant].”

According to the judicial complaint, the district judge’s prior misconduct includes stating during the “jury selection process” that the district judge “was going to cut [the complainant’s] trial time in half due to [the district judge’s] upcoming [child’s] college graduation.” The judicial complaint alleges that, in response, “[t]he attorneys . . . laughed in the courtroom,” resulting in the complainant feeling “embarrassed and humiliated.” The judicial complaint further alleges that the district judge engaged in misconduct by “refus[ing] to allow [the complainant’s counsel] to withdraw from the criminal matter despite a severe conflict of interest between [the complainant] and [counsel] that ruined the attorney-client relationship.” Additionally, the judicial complaint alleges that the complainant “suffered a ‘serious miscarriage of justice’ because of [the district judge’s] handling of [the] criminal case.” The judicial complaint states that the complainant requested that the district judge recuse from adjudicating the second motion for compassionate release because of the district judge’s “past judicial and professional misconduct during [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.

previous criminal proceedings and . . . trial.” However, the district judge “ignored [this] request and ruled biasedly [sic] against [the complainant].” The judicial complaint concludes that the district judge’s decision is “biased, destructive, devastating, and prejudicial towards [the complainant]” and that “[t]he misconduct displayed [by the district judge] has involved or led to witness tampering, blocking access to certain legal information, electronic eavesdropping, humiliation, embarrassment, compliance with laws, intimidation of neutralized innocent parties, perjury incitement, actual perjury, the withholding of evidence, and further violations of attorney-client relationships and privileges.”

I have reviewed the record, including the transcript of voir dire. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). Having reviewed the transcript, I can find no evidence to substantiate the complainant’s account of judicial misconduct during the jury-selection process, nor has the complainant identified where in the record such misconduct occurred. Furthermore, the record shows that the district judge denied counsel’s “Motion for Withdrawal as Counsel of Record and for Appointment of New Counsel” but granted in part the complainant’s “Motion for Appointment of New Counsel Due to Conflict of Interest Before the District Court.” The district judge explained that the complainants’s “request for leave to proceed pro se is granted subject to [the complainant] making a knowing and intelligent waiver of his right to counsel on the record.” Finally, the district court denied the complainant’s second motion for compassionate release for the following reasons:

Although [the complainant] has identified an extraordinary and compelling reason for compassionate release—[the complainant] has medical problems that place him at higher risk of serious injury or death from COVID-19—the 18 U.S.C. § 3142(g) factors weigh against granting his recent motions . . . requesting compassionate release. [The complainant] was convicted in a long-running conspiracy to steal commercial trucks, trailers, and equipment, a crime that adversely affected many individuals and businesses. 18 U.S.C. § 3142(g)(1). This

conviction was [the complainant's] third federal conviction involving trucks, trailers, and freight. 18 U.S.C. § 3142(g)(3). The Court agrees with the Government that [the complainant's] long and extensive criminal history, plus the nature of his crime, suggests [the complainant] would be a danger to the community if immediately released. 18 U.S.C. § 3142(g)(4).

Having reviewed the record, I conclude that to the extent that the judicial complaint challenges the district judge's orders, the allegations 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 that the district judge is biased or prejudiced against the complainant or engaged in other judicial misconduct, 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)(D).

The judicial complaint is dismissed.

November 14, 2022



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