

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-22-90105

In re Complaint of John Doe¹

This is a judicial complaint filed by a criminal defendant (“complainant”) against the United States magistrate judge assigned to the complainant’s case.

In summary, the judicial complaint alleges that the magistrate judge showed bias against the complainant by not granting the complainant’s motion for new counsel, threatening to order a competency evaluation, failing to report the complainant’s attorney’s purported misconduct, and entering an order prohibiting the complainant from filing any pro se documents to the court without the court’s prior permission. The judicial complaint also alleges that the magistrate judge retaliated against the complainant for assisting another criminal defendant with legal paperwork by denying the complainant’s motion for new counsel and retaliated against the complainant for reporting another judge’s misconduct by showing favoritism toward the complainant’s attorney.

I have reviewed the record. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). The record shows that the complainant requested substitute counsel via an ex parte, pro se motion, which the magistrate judge denied. Thereafter, the complainant’s attorney moved for a competency evaluation on two occasions, which the magistrate

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.

judge denied. Subsequently, the complainant made a second request for new counsel. The magistrate judge denied the request. After the complainant moved for new counsel a third time, the magistrate judge ordered a hearing. The complainant alleged that the attorney did not receive the complainant's consent before taking certain actions. Prior to the hearing, the record shows that the complainant filed *numerous* letters with the court. As a result, the magistrate judge entered an ex parte order prohibiting the complainant from filing or mailing pro se documents to the court without the court's prior permission. Following the hearing on the motion for new counsel, the magistrate judge entered an order for a competency evaluation of the complainant. In that order, the magistrate judge detailed the magistrate judge's reasons for doubting the complainant's competency to stand trial.

Having reviewed the record, I conclude that to the extent that the judicial complaint's allegations challenge the magistrate judge's 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 that the magistrate judge showed bias against the complainant, retaliated against the complainant, or engaged in other judicial misconduct, the allegations are "frivolous" and "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.

June 27, 2023



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