JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-22-90111
JCP No. 08-23-90001
JCP No. 08-23-90013

In re Complaint of Jane Doe[1]

These are judicial complaints filed by a civil litigant ("complainant") against a United States district judge and a United States magistrate judge assigned to the complainant's civil rights actions. *See* 42 U.S.C. § 1983.

The judicial complaints against the magistrate judge allege that the magistrate judge violated state law, federal law, and the Code of Judicial Conduct by denying the complainant's two motions to show authority and motion to recuse in the complainant's § 1983 civil rights action. According to the complainant, the magistrate judge "display[ed] extreme prejudice towards [the complainant]" and conspired with "'unauthorized attorneys' . . . to deprive [the complainant] of inherent, sacred, and inviolable rights, absent of due process."

The judicial complaint against the district judge alleges that district judge made "meritless accusations reveal[ing] th[e] judge's bias against [the complainant]" in denying the complainant's "filing of the right to redress grievances" in another § 1983 civil rights action.

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[1]Under 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.

I have reviewed the record in both § 1983 civil rights actions. *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 in the first § 1983 action, the complainant filed a "Motion To Show Authority" in which the complainant requested that the magistrate judge "enter an [o]rder to have the [defendant's] [a]ttorney . . . provide his lawful authority to act on behalf of the . . . [d]efendant or, upon failure to do so, bar him from appearing in this case." The magistrate judge denied the motion in a text order. The complainant then filed a "Motion To Recuse Magistrate Judge," seeking recusal of the magistrate judge for lack of consent pursuant to 28 U.S.C. § 636(c)(1). The magistrate judge denied the motion, explaining that magistrate judges have authority under § 636(b)(1)(A) "'to hear and determine any pretrial matter pending before the court,' except for dispositive matters such as motions for injunctive relief or for summary judgment." Thereafter, the complainant filed another "Motion To Show Authority." The magistrate judge denied the motion in a text order.

The record shows that in the second § 1983 action, the complainant filed a document titled "Notice: Courts Shall Be Open, Justice Not for Sale, Delay nor Denial" ("Notice"). In the Notice, the complainant did not seek "to proceed 'in forma pauperis'" but instead filed the Notice "in lieu of Form AO 240." The district judge interpreted the Notice as an "object[ion] to having to pay any filing fee or make any showing of [the complainant's] inability to pay such fee to file a case in [federal] [c]ourt." The district judge found the complainant's argument "similar to the type propounded by so-called 'sovereign citizens'" and meritless. The district judge denied any relief sought in the complainant's Notice.

To the extent the judicial complaints challenge the orders of the magistrate judge and district judge, 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 magistrate judge and district judge were biased against or conspired against the complainant, the

allegations are "frivolous, 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.

6/28, 2023

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