

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-22-90118

In re Complaint of John Doe¹

This is a judicial complaint filed by an inmate (“complainant”) against the United States district judge assigned to the complainant’s four civil rights cases. *See* 42 U.S.C. § 1983.

First, the judicial complaint alleges that the district judge prejudiced the complainant by “not allowing [the complainant] to amend [the] complaint” in the first two § 1983 case. Second, the judicial complaint alleges that the district judge “assigned the mode(s) conferring jurisdiction, without [the complainant’s] consent to do so” and dismissed the complainant’s third § 1983 case. Third, the judicial complaint alleges that the district judge acted impartially and aggressively in “finding ways to dismiss [the complainant’s] case(s)” and such behavior “calls into question [the district judge’s] mental process.” Finally, the judicial complaint alleges that the district judge prejudiced the complainant by “not allowing [c]ounsel to help assist in bringing proof of both claim and the threat of imminent danger” in the fourth § 1983 case.

I have reviewed the record in all of the § 1983 cases. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). In the first § 1983 case, the district judge dismissed the

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.

complaint because the complainant's claims were barred by the statute of limitations. The complainant moved to amend prior to receiving the district judge's order dismissing the complaint, seeking to add new defendants to the lawsuit. The district judge denied the motion to amend, determining that "the amendment would be futile because claims in the proposed amendment would also be dismissed" due to the statute of limitations.

In the second § 1983 case, the district judge concluded that the complainant's claims "lack[ed] an arguable basis either in law or in fact" and accordingly dismissed them. The complainant then filed a motion to consolidate and reduce fees, asking the district judge to consolidate filing fees and reduce the sum by 20 percent in four cases (two before the district judge and two on appeal to the Eighth Circuit). The district judge denied the motion based on 28 U.S.C. § 1915(b)(1).

In the third case, the district judge construed the complainant's "Letter of Intent . . . for Writ of Certiorari" as "a new complaint under 42 U.S.C. § 1983," after noting that the complainant failed to "allege any jurisdictional basis for [the] lawsuit." The district judge determined that the complainant's claims "lack[ed] an arguable basis in law or in fact" and dismissed the complaint. The district judge subsequently denied the complainant's motion to vacate or modify the judgment.

In the fourth § 1983 case, the district judge dismissed the complainant's complaint because, "[o]n at least three occasions, a federal court ha[d] dismissed civil actions brought by [the complainant] as frivolous or otherwise failing to state a claim upon which relief may be granted," and the complainant did "not allege he [was] in imminent risk of harm." The district judge also denied the complainant's request for appointment of counsel and application to proceed without prepaying fees or costs.

Having reviewed the record, to the extent the judicial complaint's allegations challenge the district judge's orders in the § 1983 cases, 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 district judge prejudiced the complainant, suffers from a mental defect, or otherwise engaged in judicial misconduct, such 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).

The judicial complaint is dismissed.

July 5, 2023



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