

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-23-90009

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 criminal case.

The judicial complaint alleges that the magistrate judge’s report and recommendation denying the complainant’s motion to suppress condoned officer misconduct and resulted in a violation of the complainant’s rights under the Fourth, Fifth, Sixth, and Fourteenth Amendments.

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’s counsel moved to suppress evidence. The magistrate judge granted the complainant permission to present pro se arguments at the evidentiary hearing on the suppression motion. In part, the complainant argued that an officer failed to follow certain state procedures regarding the finding of lost property. The magistrate judge rejected this argument, noting that no cases supported the complainant’s argument. The magistrate judge recommended that the district court deny the suppression motion, which the court did.

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.

Having reviewed the record, to the extent the judicial complaint’s allegations challenge the magistrate judge’s report and recommendation, 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 magistrate judge violated the complainant’s constitutional rights or engaged in other 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 7, 2023



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