

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-23-90014

JCP No. 08-23-90015

JCP No. 08-23-90016

JCP No. 08-23-90017

In re Complaint of John Doe¹

These are judicial complaints filed by a civil litigant (“complainant”) against three United States district judge—one of whom is now retired—and a United States magistrate judge.

The judicial complaint alleges that the judges conspired to cover up criminal behavior and acted corruptly in dismissing the complainant’s civil cases.

I have reviewed the record in the cases identified by the complainant. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). The first district judge was assigned to three of the complainant’s cases. In all three cases, the district judge dismissed the cases after the complainant failed to respond to the district judge’s order to show cause why the defendants’ motions for summary judgment or to dismiss should not be granted.

The second district judge likewise granted a defendant’s motion to dismiss after the complainant failed to respond to the district judge’s show-cause order.

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.

The now-retired third district judge and the magistrate judge were assigned to another of the complainant's cases. The magistrate judge denied the complainant's motion to proceed in forma pauperis and ordered the complainant to pay the filing fee. The magistrate judge cautioned the complainant in the order that if the complainant failed to pay the filing fee, the case would be "transferred to an Article III District Judge for purpose of entering an order of dismissal." After the complainant failed to pay the filing fee as directed, the magistrate judge ordered the Clerk of Court to assign the case to an Article III District Judge for dismissal. The case was reassigned to the now-retired district judge, who ordered that the case be dismissed without prejudice.

The now-retired district judge is not a "covered judge" subject to the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351–365. *See* J.C.U.S. Rule 1(b). Furthermore, having reviewed the record, to the extent the judicial complaints' allegations challenge the orders of the other district judges and magistrate 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 judges conspired against the complainant 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

A handwritten signature in blue ink, appearing to read "Lavenski R. Smith", written over a horizontal line.

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