

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-23-90036

JCP No. 08-23-90072

In re Complaint of John Doe¹

These are judicial complaints filed by a civil litigant (“complainant”) against the United States district judge assigned to the complainant’s civil rights actions.

The first judicial complaint alleges that the district judge “mocked” the complainant for being disabled; “mocked” the complainant for being on needs-based income; “threatened” the complainant with an injunction for filing separate civil actions; “blamed” the complainant for lack of accessibility to certain forms and information; made false and slanderous claims that the complainant failed to respond to the district judge; “lashed out” at the complainant for filing in a certain state; violated the complainant’s due process and statutory rights; blamed the complainant for clerical errors; subjected the complainant to emotional abuse and discrimination; and threatened, insulted, and harassed the complainant for not meeting the district judge’s expectations due to the complainant’s disabilities. The second judicial complaint alleges that, in another case, the district judge dismissed the complainant’s case in violation of the local rule, resulting in a denial of the complainant’s equal protection and statutory rights. According to this judicial complaint, the case “seems to [have been] dismiss[ed]” in retaliation for the complainant filing the first judicial complaint.

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.

I have reviewed the record in both of the complainant's civil rights cases. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). With respect to the first judicial complaint, the record shows that the complainant moved for leave to proceed in forma pauperis. In a text entry, the district judge denied the motion without prejudice, noting that the complainant failed to sign the complaint or financial affidavit as required under the local and federal rules and that the financial affidavit was not notarized as required. As a result, the district judge denied as moot the complainant's motion to appoint counsel and motions to amend. The district judge advised that the complainant could refile a motion to proceed in forma pauperis that complied with the local and federal rules.

The complainant subsequently filed four motions seeking to add claims for relief. In a text entry, the district judge stated that the complainant had yet to file a signed complaint in compliance with the district judge's prior order. As a result, the district judge denied the motions. The district judge directed the complainant to "file one concise, consolidated complaint containing all the claims against all the parties [the complainant] seeks to name as defendants in th[e] lawsuit," to "specifically identify which claims [the complainant] asserts against each defendant," and to sign the complaint in accordance with the rules. The district judge advised that if the complainant complied, the district judge would consider the complaint and a renewed motion for leave to proceed in forma pauperis. The district judge "warned" the complainant that the district judge would "disfavor any additional motions to add or supplement [the] claims after [the] consolidated complaint has been filed; all allegations must be contained within the consolidated complaint." The district judge noted that it would "strictly enforce the requirements of Federal Rule of Civil Procedure 15."

The complainant then filed a motion for order to add claims for relief. In a text entry, the district judge denied the motion because the complainant did not comply

with the prior order about filing one consolidated complaint. The district judge ordered the complainant “not [to] file any other motion to add claims for relief until after [the complainant] has filed a signed complaint, consistent with the . . . prior order.” The district judge advised that if the complainant “continue[d] to file unauthorized Motions to Add Claims for Relief, the [district judge] may impose sanctions, including a limitation on [the complainant’s] ability to file.”

Thereafter, the complainant filed an amended complaint. The same day, the district judge entered two text entries. In the first text entry, the district judge noted that the complainant had “at least twelve cases” in the district court and that “[m]ost of the cases involve similar factual allegations against the same defendants, repeatedly.” The complainant moved to proceed in forma pauperis in each case. The district judge observed, “In some cases, [the complainant’s] application to proceed in forma pauperis has been denied. In several other cases, the [c]ourt has granted leave to proceed in forma pauperis but immediately dismissed the complaint. In many cases, neither the factual allegations nor the defendants appeared to have any connection to [the state].” “In light of the facts and applicable law,” the district judge ordered the complainant to show cause why the district judge

should not enter an injunction prohibiting [the complainant] from seeking to file in forma pauperis in the [district court] without leave of [c]ourt (1) any new case asserting claims with respect to conduct that did not take place in [the state], (2) any new case against defendants who do not reside in or are not citizens of [the state], and (3) any new case making the same or related allegations against the defendants she has already named in any of the lawsuits she has filed to date in the [district court].

The district judge further noted the inability “to contact the [the complainant] using the information . . . provided”; as a result, the district judge ordered the complainant “to ensure that [the complainant’s] current address, telephone number, and email address are properly listed in the [c]ourt’s electronic case filing system.”

In the second text entry, the district judge ordered the complainant “to supplement the amended complaint by providing no more than one page of factual allegations to support each claim.” The district judge ordered the complainant not to “file any additional material without leave of court until [the complainant] has fully complied with the [c]ourt’s orders.”

The complainant subsequently responded to the order to show cause, filed a motion to recuse, and filed a motion to dismiss without prejudice. In a text entry, the district judge construed the motion to dismiss as a notice of voluntary dismissal, denied the complainant’s motion to proceed in forma pauperis, and denied as moot the motion for recusal. An order of dismissal was entered.

With respect to the second judicial complaint, the record shows that the complainant moved for leave to proceed in forma pauperis. In a text entry, the district judge denied the motion, stating:

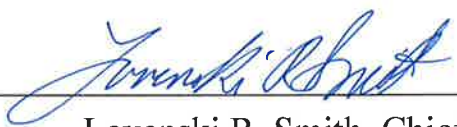
Under Local Rule 83.7 an in forma pauperis applicant “may request leave to commence a civil action without being required to prepay fees or costs by filing with the complaint an affidavit requesting leave to proceed in forma pauperis.” Furthermore, “[t]he affidavit must either be on the form provided by the Clerk, or else contain the same information requested on the Clerk’s form.” *See* L.R. 83.7. The affidavit provided by the clerk’s office requested information regarding all of [the complainant’s] sources of income over the last 12 months. *See* Doc. 1-1, at 4. [The complainant] stated on [the] affidavit that [the complainant] received Social Security Benefits, but failed to state the amount [the complainant] received. [The complainant] also has not included any information regarding tribal benefits despite alleging [the complainant] earns income from them in [the] motions to amend. *See* Doc. 4. As a result of [the complainant’s] failure to provide all of the required financial information, [the] motion to proceed in forma pauperis is denied. Additionally, [the complainant’s] motions to amend . . . are denied because [the complainant] violated local rule local rule 15.1(a)(2) by failing to attach an amended complaint that incorporated the claims

[the complainant] sought to add. Lastly, since the application to proceed in forma pauperis is denied, [the complainant's] motion for appointment of counsel . . . is denied as moot.

To the extent the judicial complaints' allegations challenge the orders of the 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). Furthermore, having reviewed the record, I find no evidence of mockery, threats, blame, harassment, discrimination, retaliation, or other judicial misconduct on the part of the district judge. As a result, 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 complaints are dismissed.

7/21, 2023



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