

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-23-90066

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In re Complaint of John Doe<sup>1</sup>

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

The judicial complaint alleges that the district judge (1) failed to follow the initial review order when the defendants failed to timely respond to the complaint, (2) “allowed” the defense attorneys to make a “misleading statement” that the defendants needed additional time to reply to a response to a motion for summary judgment when no motion for summary judgment was ever filed, (3) dismissed the § 1983 action “without first reviewing all of the evidence,” (4) violated “a duty and an obligation to first have an evidentiary hearing. . . before simply dismissing the case,” (5) dismissed the § 1983 action based on the district judge’s “own personal beliefs,” (6) showed “favorable treatment to the defendants and their attorneys for their non-compliance with the rules,” (7) “allowed the state government’s legal team to hide the conduct of the [state department of corrections] and continue to harm the inmates,” and (8) “blatant[ly] disregard[ed]” the inmates’ constitutional rights.

I have reviewed the record in the complainant’s criminal case, including the docket entries identified by the complainant. *See* Judicial-Conduct and Judicial-

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<sup>1</sup>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.

Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). The record shows that the complainant and other inmates filed the § 1983 action, challenging the administration and operation of a state department of corrections' offender treatment program. Specifically, they alleged that the administration and operation of the program violated their Fifth, Fourteenth, and Eighth Amendment rights, as well as certain provisions of the state constitution. The district judge entered a initial review order, stating, "At this early stage of the proceedings the claims asserted by [p]laintiffs do not appear frivolous and may proceed." The district judge ordered service of process to issue to all the defendants and ordered them to reply within 60 days. Over three months later, the district judge entered an order regarding the initial review order. In that order, the district judge stated, "No reply has been filed. On or before [a date certain], [d]efendants shall file a reply to the complaint." Three days before the due date for the reply, the defendants filed a motion to dismiss for failure to state a claim and for lack of jurisdiction. The complainant and other plaintiffs then filed an unresisted motion to extend the deadline to resist the defendant's motion to dismiss. In a text order, the district judge granted the motion. The complainant and other plaintiffs subsequently filed their response to the motion to dismiss. Thereafter, the defendants "mov[ed] the [c]ourt to enter an order extending the deadline for [d]efendants to reply to [p]laintiffs' resistance to [d]efendants' motion for summary judgment." In a text order, the district judge granted the motion. The defendants then filed their reply to the plaintiffs' response to the motion to dismiss.

The district judge then entered an order granting the defendants' motion to dismiss. First, the district judge concluded that "[t]he Eleventh Amendment bars [p]laintiffs' requests for monetary damages against the [d]efendants." Second, the district judge "consider[ed] whether any of [p]laintiffs' claims for prospective relief state[d] plausible claims." It denied the "[p]laintiffs' request for an order directing [d]efendants to recalculate their accrued earned-time credit," determined that the plaintiffs failed to state plausible Fifth and Eighth Amendment claims for relief, and declined to exercise supplemental jurisdiction over the plaintiffs' state-law claims.

Having reviewed the record, to the extent the judicial complaint challenges the orders and decisions of the district judge, it 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* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rules 4(b)(1), 11(c)(1)(B). To the extent the judicial complaint alleges that the district judge condoned unethical behavior, violated judicial duties, dismissed the § 1983 action based on personal beliefs, showed favorable treatment to the defendants, and blatantly disregarded the complainant’s rights, 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 17, 2023



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