

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-23-90111

In re Complaint of John Doe¹

This is a judicial complaint filed by a civil litigant (“complainant”) against the United States district judge who dismissed the complainant’s case.

The judicial complaint alleges that the district judge showed “Legal Bigotry” toward “non-attorney parties” and engaged in “Judicial Discrimination against a disabled person due to [the judge’s] Legal Bigotry.” According to the judicial complaint, the district judge denied the complainant ADA accommodations, “us[ed] the derogatory term ‘Pro-se,’” and denied the complainant due process by denying the complainant’s motion for counsel.

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 did file a pro se complaint. Additionally, the complainant filed a motion to appoint counsel and a motion for recusal. The defendants moved to dismiss the complaint for failure to state a claim. The district judge granted the motion to dismiss. In the dismissal order, the district judge also denied the motion to appoint counsel and motion to recuse. The district judge explained the meaning of “pro se” and the reason for denying the recusal motion, stating:

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.

Plaintiffs filed their Complaint *pro se*, meaning they are representing themselves without the assistance of an attorney. *pro se*, Black’s Law Dictionary (11th ed. 2019). Federal law expressly permits litigants to plead and conduct “their own cases personally.” 28 U.S.C. § 1654. Nevertheless, Plaintiffs moved to recuse [the magistrate judge] on the grounds that [the magistrate judge] “intentionally denigrated” them by referring to them as “*pro se*.” This is patently frivolous and warrants no further discussion.

(Internal record citation omitted.)

To the extent the judicial complaint challenges the district judge’s dismissal order, including its denial of the motion to appoint counsel and motion to recuse, 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* J.C.U.S. Rules 4(b)(1), 11(c)(1)(B). To the extent the judicial complaint alleges that the district judge discriminated against the complainant, such allegation is “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).

Accordingly, the judicial complaint is dismissed.

January 22, 2024



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