

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-23-90122  
JCP NO. 08-23-90123

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

This is a judicial complaint filed by a pro se litigant (complainant) against the United States district judge and the United States magistrate judge assigned to the complainant's civil action.

The judicial complaint alleges that the judges have delayed in moving the complainant's case forward and have ignored the complainant's communications with the court. According to the judicial complaint, the judges must have engaged in "ex part communication, as . . . other cases are ongoing within th same court, at the expense of [the complainant's] case that was filed earlier on in court."

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 filed the civil action on May 1, 2020. On December 14, 2022, the district judge entered an order for a settlement conference. On April 14, 2023, the defendant moved for summary judgment. On April 21, 2023, the complainant filed a memorandum opposing the summary-judgment motion. The defendant filed a reply on May 4, 2023, and the complainant filed another memorandum in opposition to the summary-judgment motion on May 9, 2023. On

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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.

May 11, 2023, the magistrate judge entered a text order cancelling the settlement conference scheduled for October 18, 2023, after the parties requested that the settlement conference be postponed. On October 6, 2023, the complainant filed another memorandum opposing the summary-judgment motion. On January 10, 2024, the district judge entered an order granting the defendant's summary-judgment motion.

“Cognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation includes an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” J.C.U.S. Rule 4(b)(2). The complainant has provided no proof of improper motive and only speculates that the district judge and magistrate judge engaged in improper ex parte communications. Nor does the complainant offer proof of habitual delay in a significant number of unrelated cases. As a result, the judicial complaint is dismissed.

1/18/2024, 2024



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