

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-21-90016

In re Complaint of John Doe¹

This is a judicial complaint by a private citizen against a United States district judge. The judicial complaint alleges that the district judge “made outrageous public statements regarding the President of the United States” and appends an article that quotes the subject judge. Prior to the filing of the judicial complaint, the subject judge self-reported a possible violation of the Judicial Code of Conduct based on the quoted comments.

A judicial complaint may be “concluded on the ground that voluntary corrective action has been taken.” Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(a)(2). More specifically, “[t]he chief judge may conclude a complaint proceeding in whole or in part if . . . the chief judge determines that the subject judge has taken appropriate voluntary corrective action that acknowledges and remedies the problems raised by the complaint.” J.C.U.S. 11(d)(2); *see also* 28 U.S.C. § 352(b)(2) (“[T]he chief judge . . . may . . . conclude the proceeding if the chief judge finds that appropriate corrective action has been taken . . .”). “Under the Rule, action taken after a complaint is filed is ‘appropriate’ when it acknowledges and remedies the problem raised by the complaint.” J.C.U.S. Commentary on Rule 11. The subject judge’s “[v]oluntary corrective action should be proportionate to any plausible allegations of

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.

misconduct in the complaint.” *Id.* “Rule 11(d) implements the [Judicial Conduct and Disability] Act’s provision for dismissal if voluntary appropriate action has been taken.” *Id.*

Here, the subject judge took voluntary corrective action in the form of a public apology. I conclude that the voluntary corrective action was proportionate to the alleged misconduct and appropriate.

Accordingly, the judicial complaint is dismissed. *See* J.C.U.S. Rule 11(d)(2).

July 26, 2021



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