

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-24-90014

In re Complaint of John Doe*

This is a judicial complaint filed by a criminal defendant against a magistrate judge who is assigned to the defendant’s criminal case.

The complaint alleges that the judge “is allowing the attorneys to violate [his] 6th Amendment” rights. The complaint asserts that the judge “did not do her duties as a federal judicial officer . . . to sit impartially and lawfully” at a status conference. The record in the criminal case shows that the judge later granted the complainant’s motion for new counsel and appointed another attorney to represent the defendant. The complaint alleges that the judge “continues to do wrong” by forcing the latest appointed counsel—who is at least the defendant’s fifth attorney—to remain on the case. The complaint makes a general allegation that all of the attorneys involved “committed fraud on the court.” The complaint concludes that the judge is not impartial and should be disqualified.

Insofar as the judicial complaint challenges the judge’s decisions about appointment or substitution of counsel, the complaint must be dismissed as “directly related to the merits of a decision or procedural ruling.” 28 U.S.C. § 352(b)(1)(A)(ii); *see* Rule 4(b)(1) (misconduct does not include “an allegation that calls into question the correctness of a judge’s ruling”). The complaint’s allegation that the judge is not

*Under Rule 24(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, the names of the complainant and the subject judge are not disclosed. Citations or references herein to a “Rule” refer to these Rules.

impartial is conclusory and unsupported by anything other than allegedly adverse decisions; it is therefore dismissed as merits-related. *See In re Complaint of John Doe*, No. 08-10-90026 (8th Cir. C.J. Aug. 19, 2010) (although allegations of judicial bias are not necessarily merits-related, allegations must be dismissed as merits-related when their support consists only of adverse rulings). To the extent that the complaint's allegations are not merits-related, they are vague and "frivolous" or "lacking sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), (D).

For these reasons, the judicial complaint is dismissed.

/s/ Steven M. Colloton
Chief Judge

Filed: May 22, 2024
