

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-24-90016

In re Complaints of John Doe*

These are judicial complaints by a civil plaintiff against the district judge who dismissed three of her *pro se* actions filed under 42 U.S.C. § 1983.

I.

In the first underlying action, the complainant sued a county, two cities, and a State. The complainant alleged that case workers were negligent in taking her three children from her home without a written charter agreement between the State, the county, and the cities. The complainant also alleged that a state subcontractor had local police take her with force from her home, and that she was charged with a crime despite the absence of ordinances in the cities' local charters.

The complainant filed a motion to proceed in forma pauperis, but did not sign it. She did not correct the deficiency within 14 days as directed by the clerk of court. Nearly two months later, the district judge ordered the complainant to correct the defect and warned that her failure to comply with the order would result in striking of the motion and dismissal of the case without further notice. Although the complainant made additional filings in the case, she did not comply with the order to correct the deficiency in her motion. Two months after the judge warned the

*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.

complainant about dismissal, the judge issued a memorandum and order dismissing the action without prejudice for failure to correct the deficiency.

The corresponding judicial complaint alleges that the judge violated an ethical canon stating that a judge should perform duties with respect for others and give every person with a legal interest in the proceeding the full right to be heard. The complaint alleges that the judge violated this canon “by having a person other than the judge write a memorandum without first giving advance notice to ALL parties that he was seeking for ‘written advice from a disinterested expert of the law’ under the word ‘memorandum’ by failing to file a motion of the court.” The complaint also alleges that the memorandum and order of dismissal violates a procedural rule requiring all legal arguments to be presented in the body of the memorandum.

Because this judicial complaint simply challenges the judge’s memorandum and order dismissing the civil complaint, the judicial 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”). There is no showing, moreover, that the judge sought advice from an expert without notice to the parties.

II.

In the second underlying action, the complainant sued an attorney alleging that the attorney violated state law by submitting documents online with an electronic signature in state court cases regarding the complainant’s children. The complainant alleged that the attorney “would have to show a QR code or a watermark that shows a unique signature that is only known to her,” similar to the complainant’s “birthmark on [her] neck that clearly shows a unique signature.”

In a memorandum and order of dismissal, the district judge stated that the complainant’s allegations were “difficult to discern.” The judge concluded that no

federal or state law requires a “unique signature” of the type alleged, and that the complaint failed to allege that the defendant was a state actor who could be subject to liability under § 1983. The judge thus dismissed the civil complaint without prejudice for failure to state a claim, denied leave to amend the complaint as futile, and declined to appoint counsel.

In the judicial complaint, the complainant alleges that the “judge owes [her] for discrimination and not giving [her] an interpreter when the judge found the complaint ‘difficult to discern’ and for using [her] birthmark as a written form of slander to write an order.” The complaint suggests that the judge’s memorandum and order was written by the defendant and should not have required six pages of explanation if she failed to state a claim. The complainant also alleges that the judge “is being racist against [her]” by rejecting appointment of counsel without determining whether she is “Indigent or Indian.” The complaint concludes that the judge was “willing to discriminate based on body image description including race and disability for not appointing an interpreter and a U.S. Attorney and refus[ing] [her] rights to amend a complaint.”

Insofar as the judicial complaint challenges the judge’s order dismissing the civil complaint, denying leave to amend, and declining to appoint counsel, the judicial 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”). To the extent that the complainant alleges that the judge ruled against her because of race or other discrimination, the allegations are vague, conclusory, 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). There is no showing, moreover, that the judge’s memorandum was written by the defendant, and there is nothing improper about a judge providing a thorough six-page explanation for why a complaint fails to state a claim.

III.

In the third underlying action, the complainant sued a State, city, and county court. For each defendant, the complainant also listed individual employees—a state case worker, a police school resource officer, and two county judges, respectively. The complainant alleged that the state opened three juvenile cases on her children, that the county sheriff overcharged funds for embezzlement, and that the defendants breached a contract with her by removing her children. The complainant asked for closure of the county courthouse and payment of \$1 billion to her and to each of her children.

In the memorandum and order of dismissal, the district judge stated that the complainant failed to state a claim for relief because she alleged “legal conclusions that barely address the alleged wrongdoing and provides few facts to support the allegations.” The judge noted that the complainant made no specific allegations against several of the defendants and alleged no facts suggesting that any of the defendants’ actions were contrary to law. The judge added that the claims for monetary relief against the State and the county court were barred by the Eleventh Amendment. The judge dismissed the claims against the individual defendants because they were duplicative of claims against the same parties in other pending actions brought by the same plaintiff. The judge thus dismissed the complaint without prejudice for failure to state a claim upon which relief could be granted.

The corresponding judicial complaint alleges that the judge “issu[ed] a briefing done by another party that resulted in an order of dismissal of a multi-million dollar case against government personnel that were named in the violation under their duties and not the entity as falsely written in the pleadings.” The complainant also alleges that she was not given notice that a summons was issued to the parties named in the case. The complainant alleges that the judge owes her for “falsely issuing a ‘memorandum and order’ that is not a memorandum but a briefing and for not giving

advance notice . . . before issuing both a ‘memorandum and order’ which violates [her] rights to have 10 days to respond to the motion of memorandum.”

The judicial 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”). Judges, moreover, may issue a decision by way of a “memorandum,” and there was nothing improper about the form of the judge’s order.

For these reasons, all three judicial complaints are dismissed.

/s/ Steven M. Colloton
Chief Judge

Filed: July 9, 2024
