

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-24-90022

JCP No. 08-24-90023

JCP No. 08-24-90024

JCP No. 08-24-90025

JCP No. 08-24-90026

In re Complaint of John Doe¹

These are judicial complaints filed by a pro se civil litigant (“complainant”) against three United States circuit judges and two United States district judges.

The judicial complaints concern approximately six cases filed by the complainant. In the first case, the complainant brought a pro se civil action alleging that a library invaded the complainant’s privacy. One of the subject district judges denied the complainant’s motion for leave to proceed in forma pauperis (IFP); the complainant then appealed. Two of the subject circuit judges sat on the panel that dismissed the complainant’s appeal for lack of jurisdiction due to untimeliness.

In the second case, the complainant sought leave to proceed IFP to file a pro se complaint against another library, alleging that the library had invaded the complainant’s privacy. One of the subject district judges assumed without deciding that the complainant qualified economically for IFP status, denied the IFP application, and dismissed the complaint for failure to state a claim because the complainant failed to cite any federal statutes supporting the invasion-of-privacy

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.

claim. The complainant filed a motion for reconsideration, along with documentation that the complainant claimed supported the legal claims. This documentation included handwritten and typed notes alleging that people on television programs would make indirect comments about the complainant. The district judge denied the motion for reconsideration, and the complainant appealed. One of the subject circuit judges sat on the panel that summarily affirmed the district judge.

The complainant next brought two pro se civil actions alleging that yet another library invaded the complainant's privacy and stalked the complainant. One of the subject district judges entered an order in each case denying the complainant's motions for leave to proceed IFP. The complainant then filed a motion for reconsideration of the order in one of the cases. The district judge denied the motion. The complainant filed a pro se notice of appeal in each case, designating the district judge's order denying leave to proceed IFP. Two of the subject judges sat on the panels that dismissed the complainant's appeals for lack of jurisdiction due to untimeliness.

In the fifth case, the complainant, seeking leave to proceed IFP, filed a complaint against a food manufacturer, alleging that it conspired with television manufacturers and stations in order to steal ideas for a variety of cereal flavors. The complainant alleged that the food manufacturer stole the complainant's ideas without compensation by spying on the complainant through television sets and in person. The complainant alleged that the food manufacturer's actions constituted racketeering and requested damages. The district court, screening the complaint under 28 U.S.C. § 1915(e)(2)(B), dismissed the action without prejudice, concluding that the complainant's assertion that the complainant was "the subject of an international corporate conspiracy" was facially implausible. The complainant then filed a "Motion to Vacate Order of Dismissal and Reconsider," which the district court interpreted as being brought under Federal Rule of Civil Procedure 60. The district court denied the motion, concluding that the complainant failed to provide any basis that would justify

relief. The complainant appealed that order, and the three subject circuit judges sat on the panel that summarily affirmed the district court's decision.

In the sixth case, the complainant, seeking leave to proceed IFP, filed a pro se civil complaint against a retail corporation, alleging that the corporation's associates conspired against the complainant with store guests to track and contaminate products that the complainant commonly purchased; according to the complainant, the corporation's actions resulted in health-related issues. The complainant further alleged that the corporation caused "unwarranted exposure of [the complainant's] person by conveying [the complainant] in a negative light" and that the "defamation of [the complainant's] character has already been exploited and has shown to have escalated throughout several states." The complainant asserted both diversity and federal question jurisdiction. One of the subject district judges dismissed the case for failure to state a claim, concluding that the complainant's claims were "fanciful, irrational, and wholly lacking in factual grounding." The complainant filed a post-judgment motion, rearguing the merits. The district judge denied the motion, construing it was one for relief from judgment under Rule 60(b). The complainant timely appealed, and two of the subject circuits judges sat on the panel summarily affirming the district judge's order.

In these judicial complaints, the complainant alleges that the subject judges engaged in the following judicial misconduct: (1) "deemed the cases frivolous and denied proceedings prematurely"; (2) "often used the denial of the IFP affidavit as one of the methods to constantly and quickly dismiss the case filing as well as avoid/derail directing service on defendant by claiming to have pre-screened the complaints for merit under 28 U.S.C. § 1915(e)(2)(B)"; and (3) contributed to the "pass[ing] along through in person communication as well as . . . broadcast[ing] live on air" "the status and process of [the complainant's] cases."

To the extent the judicial complaints challenge the decisions and orders of the subject judges, they 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* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rules 4(b)(1), 11(c)(1)(B). To the extent the judicial complaints allege that the subject judges surreptitiously disseminated case information to the media or engaged in any other judicial misconduct, such allegations are “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 complaints are dismissed.

May 28, 2024



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