

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-24-90031

JCP No. 08-24-90032

JCP No. 08-24-90033

JCP No. 08-24-90034

In re Complaint of John Doe*

This is a set of judicial complaints filed by a plaintiff in a civil rights action. He complains against the district judge who dismissed the lawsuit and the three circuit judges who affirmed the dismissal.

The complainant filed a *pro se* lawsuit against a police department and other defendants. The lawsuit arose after police contacted the complainant about his alleged harassment of a woman that resulted in an order of protection against him. The district judge granted the defendants' motions to dismiss. The judge also denied post-judgment motions to vacate the judgment and motions to recuse. The complainant appealed, and the three circuit judges summarily affirmed the judgment.

The complainant raises several allegations based on a video recording of an interview that the district judge gave for an oral history project in 2018. The complainant says that he watched the interview on a public website. He submitted a thumb drive as an exhibit with links to the video.

*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.

The complaint alleges that the district judge committed misconduct in the interview by publicly expressing a negative opinion about former President Trump while he was a declared candidate for reelection and by making critical comments about a Justice of the Supreme Court. The complainant states that the interview is no longer publicly available, and suggests that if the judge did nothing wrong, then it would make no sense to restrict access to the video. I have reviewed the exhibit submitted with the complaint and found that the interview is no longer accessible.

A previous judicial complaint against this same district judge alleged judicial misconduct based on his negative comments about former President Trump in the oral history interview. My predecessor as chief judge observed that a judicial complaint proceeding may be concluded 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.” Rule 11(d)(2). The former chief judge concluded that “the subject judge took voluntary corrective action by requesting that the video be removed from the internet,” and that “the voluntary corrective action was proportionate to the alleged misconduct and appropriate.” *In re Complaint of John Doe*, No. 08-23-90082 (8th Cir. C.J. Jan. 24, 2024). The review panel of the judicial council denied a petition for review. The present complaint raises essentially the same allegation of misconduct, and I see no basis to reach a different conclusion here with respect to the judge’s interview comments about former President Trump and the Justice of the Supreme Court.

The complaint also alleges that the judge’s interview shows that he is biased against men and against Republicans, and therefore biased against the complainant who is a male and a life-long Republican. The allegation of bias against men is based on comments in the judge’s interview about sentencing female defendants in criminal cases. Whatever the significance of those remarks for a criminal case, they are insufficient to establish bias against the complainant in this civil action. There is also insufficient evidence to show that the judge was biased against the complainant because of his affiliation with a political party. The judge’s quoted comments from

the interview about public figures were particular to those officials and not an exhibition of general bias against all members of one political party. *See* Rule 11(c)(1)(D).

The complainant next expresses concern that the district judge has a disability. The complainant acknowledges that the judge “is mentally clear and sharp,” but points to the judge’s “advanced years” and “difficulty in walking and using stairs.” The cited evidence is insufficient to raise an inference that the judge is suffering from a temporary or permanent impairment rendering him unable to discharge the duties of his office. *See* Rule 4(c), 11(c)(1)(D).

The complaint asserts that the circuit judges, by summarily affirming without briefing, retaliated against the complainant for reporting “inconvenient facts” about the district judge. The rules of the court of appeals allow for summary disposition. 8th Cir. R. 47A. The complainant’s allegations against the circuit judges 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).

For these reasons, the judicial complaint against the district judge is dismissed in part, and the proceeding is otherwise concluded based on voluntary corrective action of the subject judge. The judicial complaints against the circuit judges are dismissed.

/s/ Steven M. Colloton
Chief Judge

Filed: August 5, 2024
