

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-24-90038

In re Complaint of John Doe*

This is a judicial complaint filed by a prisoner against the district judge who is assigned to his criminal case.

In 2024, the complainant filed a *pro se* post-conviction motion to reduce his sentence. The judge followed standard practice and entered an order appointing the federal public defender to represent the complainant for that limited purpose. The public defender had a conflict of interest, but rather than decline representation, the defender asked the complainant's former court-appointed attorney to assist the complainant. The complainant filed motions seeking removal of both attorneys and appointment of new counsel. In one of the motions, the complainant accused the judge of conspiring with counsel to deny him relief. The judge removed both attorneys, but declined to appoint new counsel. The judge stated that there is no constitutional right to counsel in post-conviction proceedings, and that the issue of the complainant's eligibility for a sentence reduction was not complex. The judge added that he had not communicated with counsel about the case, and his staff had communicated with counsel only about the status of her representation. The judge ruled that the complainant was not eligible for a sentence reduction.

*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 complainant alleges that he “was a victim in a bias scandal to deny [him] both counsel and relief” from his sentence. The complainant asserts that the judge knew that he had a conflict with the public defender. The complainant alleges that he also had a conflict of interest with his formerly appointed attorney, and that the attorney had a “secret unofficial appointment” regarding his motion for a sentence reduction. According to the complainant, the judge told the attorney in “private conversations” that he did not like the complainant because he was a sex offender and would never rule in his favor. The complainant asserts that the judge and the attorneys conspired against him. The complainant also argues the merits of his claim for sentencing relief.

The portion of the judicial complaint that challenges the judge’s orders regarding resentencing or appointment of counsel 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 allegations about bias and conspiracy are 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).

For these reasons, the judicial complaint is dismissed.

/s/ Steven M. Colloton
Chief Judge

Filed: October 15, 2024
