

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-24-90039

In re Complaint of John Doe*

This is a judicial complaint filed by a *pro se* civil rights plaintiff against the district judge who is presiding over his case.

In the underlying lawsuit, the complainant sued corrections officers and other employees of a county jail for deprivation of his civil rights after he was injured during pretrial detention. The judge granted summary judgment to the defendants on all of the claims, except for one claim of excessive force against the officer who used a choke hold to take the complainant to the ground. The complainant had asserted that the videotape of the incident was altered by the defendants. The judge stated that there was no evidence of alteration. The judge also observed that the video was the complainant's "best evidence" and that it corroborated his version of events. After the officer filed an interlocutory appeal about qualified immunity, the complainant filed a motion for entry of final judgment on the dismissed claims to permit him an immediate appeal. The judge denied the motion, stating that entry of judgment was unlikely to streamline the case and could create complications. The judge added that the complainant failed to identify any particular way in which delaying his appeal posed a danger of hardship or injustice to him. *See* Fed. R. Civ. P. 54(b).

*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.

After the complainant prevailed on appeal, he filed several motions asking the district judge to recuse himself. The complainant alleged that the judge's rulings displayed "a deep-seated favoritism or antagonism that would make fair judgment impossible." *Liteky v. United States*, 510 U.S. 540, 555 (1994). The judge issued a written order declining to recuse himself. The judge explained that the complainant simply challenged his rulings and his views of the facts or the law. The judge pointed out that some of his rulings and views were favorable to the complainant.

The judicial complaint alleges that the judge has "made many erroneous rulings through many biases and prejudices against the complainant in his 'deepseated favoritism and antagonism.'" The complaint asserts that the judge "lied" about a medical record and alteration of the video footage. The complainant adds that he should already have been compensated and won by default for an alleged discovery violation. In his cover letter, the complainant asserts that the judge displayed bias and prejudice by causing a "piecemeal appeal" when he declined to enter a final judgment against the complainant on the claims dismissed on summary judgment while one claim was still pending.

Much of the judicial complaint challenges the judge's orders and decisions, including the decision not to recuse, and those allegations 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* Rules 4(b)(1) (misconduct does not include "an allegation that calls into question the correctness of a judge's ruling, including a failure to recuse"), 11(c)(1)(B). To the extent that the complaint alleges that the judge was deliberately untruthful or that his decisions were the result of prejudice or bias, the complaint is dismissed as "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); *see also Liteky*, 510 U.S. at 555 (judicial rulings alone almost never constitute valid basis for bias or partiality motion and can only in rarest circumstances show degree of favoritism or antagonism required).

For these reasons, the judicial complaint is dismissed.

/s/ Steven M. Colloton
Chief Judge

Filed: September 19, 2024
