

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-24-90044

In re Complaint of John Doe*

This is a judicial complaint filed by a plaintiff against the district judge who presided over his civil rights action.

The district judge dismissed the complainant's civil rights case in 2017. More than seven years later, on May 13, 2024, the complainant filed a "motion for reconsideration and/or to reopen [the] case and file an amended complaint." The judge denied the motion in an order set forth on the docket. The order stated that the case had been closed since 2017, that the motion was untimely, and that the plaintiff's motion failed to set forth any argument or authority for the judge to reconsider the prior judgment, to reopen the case, or to otherwise grant leave to proceed with the proposed amended complaint. The order was signed by the judge in the docket text entry. The name of the clerk who entered the docket order was set forth in parentheses.

On May 21, 2024, the complainant filed a document entitled "Objection" to the denial of his motion. On June 10, 2024, he filed a motion "Against Western District Court Officials" in the district court with the court of appeals identified in the caption. On June 11, 2024, the judge denied the objection "insofar as it was intended as a request for this court to reconsider" its May 13, 2024 order. In the same order,

*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 judge construed the filing on June 10 as a notice of appeal, and denied leave to proceed in forma pauperis. The district court forwarded the June 10 filing to the court of appeals, and the complainant notified the court that he intended the filing to be a judicial complaint.

The judicial complaint challenges the judge's order denying his motion for reconsideration filed on May 13, 2024. The complainant alleges that the denial in a docket entry entered by the clerk is "evidence of rubber stamping," and that the motion was not fully considered because the motion and attachments were returned to him and never filed. The complaint states that the "clerk and judge appear to have made [their] decision based on the only information they considered, the date of the closed . . . [civil rights] complaint instead of the legal circumstances contained in [his motion and] documents." The complainant also alleges that he is "left in limbo" on his objection, and that the judge and the clerk abused their discretion "when they created and facilitated fraudulent orders, [notice of appeal] and in forma pauperis documents based on their copy" of the June 10 filing.

The judicial complaint challenges the merits of the judge's decisions and orders, and it 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 complainant's allegations that his motion and attached documents were not filed or fully considered by the judge are "frivolous." 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C). The district court docket sheet shows that the complainant's motion and attachments were filed in the district court, and the documents are available for review electronically. The judge explained that the motion failed to set forth any argument or authority to justify the requested relief.

As for the complainant's allegation of delay, the judge ruled on the complainant's objection within a month of its filing, one day after the filing of this judicial complaint. The complaint does not allege any delay that might constitute misconduct. *See* Rule 4(b)(2). The allegation that the judge created fraudulent orders in construing the June 10 filing is "frivolous." 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C). The complaint's allegations about the clerk are not appropriate for consideration under the Judicial Conduct and Disability Act. *See* 28 U.S.C. §§ 351(a), 352(b)(1)(A)(i); Rule 11(c)(1)(G).

For these reasons, the judicial complaint is dismissed.

/s/ Steven M. Colloton
Chief Judge

Filed: September 19, 2024
