

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-24-90046

In re Complaint of John Doe*

This is a judicial complaint filed by a prisoner against a magistrate judge who presided in the prisoner's civil rights action.

In the underlying action, the magistrate judge issued a 57-page order recommending dismissal of the complainant's lawsuit against prison medical providers and state prison employees. In the same order, the magistrate judge denied the complainant's motions to appoint an expert, to amend his pleadings, and for attorney sanctions. The judge also denied as moot the motions for a temporary restraining order, for a preliminary injunction, and for an order to show cause. After considering the complainant's objections to the magistrate judge's recommendations, the district court adopted the recommendations.

In his judicial complaint, the complainant alleges that the magistrate judge (1) failed to act impartially in summarily dismissing his motions despite the defendants' "fraudulent misrepresentations of [his] medical records and interfering and delaying medical treatment," (2) made "misleading statements" about his medical records, "totally disregarded allegations of fraud and conspiracy," and "twisted the evidence" to "cover-up" for state conspirators, (3) made a misleading conclusion based on a fraudulent statement by a prison therapist, (4) gave "comfort and protection to . . .

*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.

medical providers who lied and falsely recorded” test results, (5) failed to “perform the duties of judicial office impartially” and failed to appoint a neutral expert witness, (6) knowingly adopted false and fraudulent misrepresentations of prison counsel regarding a fax confirmation, (7) refused “to perform judicial duties to discipline and sanction doctors who lied” about test results, (8) misrepresented evidence of conspiracy to deny him sick call, (9) failed “to act impartially and condemn” a prison warden and others for willfully failing to preserve video surveillance of his medical treatment, and (10) “created an appearance of impropriety when he denied [his] motion for attorney discipline.” The complaint concludes that the magistrate judge has “deep-seated favoritism and partiality.”

The judicial complaint largely challenges the correctness of the magistrate judge’s decisions and orders, 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* Rule 4(b)(1) (misconduct does not include “an allegation that calls into question the correctness of a judge’s ruling”). There is no supported allegation of improper motive. The conclusory allegations of fraud and favoritism are dismissed as “lacking sufficient evidence to raise an inference that misconduct has occurred.” Rule 11(c)(1)(D).

For these reasons, the judicial complaint is dismissed.

/s/ Steven M. Colloton
Chief Judge

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