

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-24-90048

In re Complaint of John Doe*

This is a judicial complaint filed by an inmate against a district judge who presided in the inmate’s criminal case. The inmate complains that the judge had not ruled on a motion for compassionate release that was filed almost four years earlier and supplemented about a year before the filing of the complaint. Citing a letter from his attorney stating that counsel had written to the court about “the lengthy wait time on your motion, along with several other clients,” the complaint alleges that the judge has committed cognizable misconduct by engaging in “habitual delay in a significant number of unrelated cases.” The complainant asserts that his attorney told him that the judge has failed to rule on some motions until the inmates have been released from prison and then has dismissed the pending motions as moot.

The subject judge was invited to reply to the complaint and provided a written response. *See* Rule 11(b). The judge explained that the complainant moved for compassionate release in two different judicial districts in July 2020. The record shows that he is serving multiple terms of imprisonment imposed in three different districts for bank robbery, firearms offenses, and escape. A judge in another district denied a motion for compassionate release in September 2020 in a one-page order on the ground that the complainant is a danger to society.

*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 subject judge recounted that after the complainant filed his motion in the judge's district on July 24, 2020, he requested several opportunities to file supplemental motions or exhibits. The complainant filed these materials on September 8, 2021, September 9, 2021, July 28, 2022, May 10, 2023, May 16, 2023, and June 22, 2023. The judge then screened the motion as part of a process used to give priority to those motions most likely to have merit. The judge began to work on the complainant's case in early 2024 and filed a thorough 17-page order on October 16, 2024, that denied the motion.

As to motions for compassionate release more generally, the judge explained that due to the high volume of such motions after enactment of the First Step Act, a screening process was implemented to ensure that motions with apparent merit were given priority and resolved immediately. Other motions are handled thereafter in due course as the court's docket and caseload permit. The judge's response gave assurance that no motion was delayed in an attempt to render the motion moot. The judge also explained that there were seven other motions for compassionate release currently pending before the judge, but none was ripe for disposition at the time of the response.

"Cognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases." Rule 4(b)(2).

Having considered the judge's response and the docket in the complainant's case, I conclude that there is insufficient evidence to raise an inference of cognizable misconduct. *See* Rule 11(c)(1)(D). Considering the complainant's case alone, the motion was pending for a long time, but the judge reasonably points out that the complainant filed multiple supplements and exhibits over a two-year period. Once all filings were completed, the judge resolved the motion within fourteen months in

an order that gave thorough consideration to the asserted grounds for relief. More to the point, there is no showing that the judge engaged in “habitual delay in a significant number of unrelated cases.” That the complainant’s attorney once inquired about the status of other motions for compassionate release and allegedly observed that some previous motions had been denied as moot is insufficient to show that the judge committed cognizable misconduct. The judge has reported use of a screening process to ensure that meritorious motions are resolved first. While this process may cause some delay in the resolution of motions that appear to lack merit, the judge permissibly prioritizes motions in which a defendant may be entitled to liberty. The judge also reports that no other compassionate release motion assigned to the judge is ripe for decision, so any inordinate delay as to pending motions has been resolved by corrective action. *See* Rule 11(a)(2).

For these reasons, the judicial complaint is dismissed. Alternatively, the proceeding is closed on the ground that voluntary corrective action has been taken.

/s/ Steven M. Colloton
Chief Judge

Filed: April 8, 2025
