

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-24-90079

In re Complaint of John Doe*

This is a judicial misconduct complaint by a criminal defendant against a magistrate judge presiding in his case.

The complainant was charged with receipt and distribution of child pornography. He alleges that at his pretrial detention hearing, the judge “displayed deliberate indifference in his judgment to deny [the complainant] any personal recognizance or appearance bond/supervised release.” The complainant states he believes that any case that the judge and the complainant’s prosecutor “are on together is a conflict of interest given their past history of working together.” The complainant alleges that the judge was not impartial in denying him release because the judge stated that the complainant was not a flight risk, a probation officer stated the complainant was a good candidate for pretrial release, and the prosecutor did not “show any evidence that [he] was a threat to society or that [he] wouldn’t appear at court.” The complainant also asserts that the public defender was ineffective in defending him at the pretrial detention hearing. The complainant asks for reconsideration of the decision on pretrial release.

After a hearing, the judge ordered that the defendant be detained pending trial. The judge noted that because the charges involved a minor victim, there was a

*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.

rebuttable presumption that no conditions would reasonably assure the complainant's appearances at all proceedings and the safety of the community. The judge observed that the "weight of the evidence against the [complainant was] overwhelming." The judge found that the complainant was a danger to the community due to the nature of the pending charge and the complainant's history of mental health issues and substance abuse.

"Cognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling." Rule 4(b)(1). The complaint's allegations challenging the correctness of the judge's denial of pretrial release must be dismissed as "directly related to the merits of a decision or procedural ruling." 28 U.S.C. § 352(b)(1)(A)(ii); Rule 11(c)(1)(B). To the extent that the complaint alleges partiality or a conflict of interest in denying pretrial release, the complaint's allegations are conclusory and "lacking sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(D). The complaint's allegations about actions of the prosecutor or the public defender are not subject to the Judicial Conduct and Disability Act. *See* 28 U.S.C. § 351(a); Rule 11(c)(1)(G) (allowing dismissal of allegations not appropriate for consideration under the Act).

For these reasons, the judicial complaint is dismissed.

/s/ Steven M. Colloton
Chief Judge

Filed: December 4, 2024
