

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-24-90080

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In re Complaint of John Doe*

This is a judicial misconduct complaint by a criminal defendant against two district judges: an active judge presiding in the complainant's criminal case, and a senior judge who supervises the court's *pro se* filings.

The complainant filed a "complaint of misconduct" in the district court alleging that (1) each judge has a conflict of interest and must recuse as "a party to the proceedings," (2) "the court received a gift and favor to prosecute a citizen under fraud," (3) the active judge issued an order restricting the complainant from filing additional *pro se* documents without the judge's permission to "intervene a sentence reduction," (4) the court has violated the code of ethical conduct by leaving him in prison despite his assistance as a Congressional whistle-blower and witness for Congress, and (5) he "continued on May 29, 2024 for his sentence reduction and denied to be heard."

The senior judge returned the "complaint of misconduct" to the complainant because he had sent the judicial complaint to the wrong court and because he was barred by the prior order of the active judge from submitting additional *pro se* filings without the judge's authorization.

*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 complainant now has filed a judicial complaint against the senior judge and the active judge with this court. The complainant attaches the senior judge's order and the misconduct complaint that was sent to the district court. The complainant seeks review of the senior judge's order returning the "complaint of misconduct" and alleges that the refusal to grant him a sentence reduction for substantial assistance shows the "parties participants with Google."

In the underlying criminal case, the active judge issued an order denying eight of the complainant's *pro se* motions as frivolous. In the order, the judge noted the "many repetitive and nonsensical filings [the complainant] has made in the past in this closed criminal action, in civil *pro se* filings in this Court, and in filings with the United States Court of Appeals for the Eighth Circuit." The judge observed that he had warned the complainant in an earlier order that further abuse of his filing privileges might lead to a limitation on his right to file. Stating that time had come, the judge directed the clerk of court not to accept any additional filings from the complainant and to send any submissions to the judge for screening or for determination of whether they should be filed.

Later, on December 4, 2023, the complainant filed a *pro se* motion for reduction of his sentence based on an amendment to the Sentencing Guidelines. The active judge appointed a public defender to file a motion if the public defender determined that the complainant qualified for relief. The public defender determined that complainant did not qualify for relief and filed a motion to withdraw from representation. The judge granted the motion to withdraw, but considered the complainant's *pro se* motion to reduce his sentence, and denied a reduction. The complainant appealed the denial. On May 20, 2024, a panel of three circuit judges summarily affirmed.

"Cognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling." Rule 4(b)(1). Insofar as the judicial complaint challenges the correctness of the judges' orders, the judicial complaint 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 otherwise alleges judicial misconduct, the complaint’s allegations are 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). The active judge considered the complainant’s pro se motion for a sentence reduction filed after the order restricting *pro se* submissions, and denied the motion on the merits.

For these reasons, the judicial complaint is dismissed.

/s/ Steven M. Colloton
Chief Judge

Filed: December 3, 2024
