

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-25-90004

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In re Complaint of John Doe\*

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These are complaints of judicial misconduct by a criminal defendant against a magistrate judge and a district judge who are assigned to his case.

The complainant alleges that the magistrate judge violated his due process rights in connection with his motion for a hearing under *Franks v. Delaware*, 438 U.S. 154 (1978). The complainant asserts that his rights were violated because (1) the judge conducted a “quasi-*Franks*” hearing instead of a “full-*Franks*” hearing, (2) the judge indicated that the motion was granted in part and denied in part for reasons stated on the record, but the record did not state the reasons, (3) the judge failed to issue an oral or written order on the motion, and (4) the absence of an order prevented the complainant from filing objections or seeking review.

The complainant also alleges that the district judge did not consider his motions in December 2024 to proceed *pro se* with standby counsel. The complainant attaches letters to him from the clerk of court stating that “per [the district judge] the enclosed documents are being returned to you and have not been filed as you have an attorney appointed to your case.”

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\*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 record shows that the magistrate judge granted the complainant's motions to proceed *pro se* with standby counsel. The complainant filed several *pro se* pretrial motions, including a motion for a *Franks* hearing. The magistrate judge conducted a hearing on the pretrial motions. Court minutes from the hearing recount that "[f]or the reasons stated on the record at the Motions Hearing, Defendant's Motion for *Franks* Hearing was granted in part and denied in part, as stated on the record." The magistrate judge stated that on the *Franks* issue, he would allow the complainant to ask questions of the listed witness about the source of his information provided in the affidavit submitted in support of a search warrant. "So if you want to call it a quasi-*Franks* hearing, [the complainant] will be able to inquire into those areas regardless of what the direct is, since we have the exhibit here and since we have the witness here." The complainant questioned the witness about the source of information in the affidavit.

Later, in December 2024, the complainant filed a motion for removal of standby counsel. In the motion, he requested "appointment of full representation" and time for his new lawyer to prepare for trial. The district judge conducted a status conference with the complainant and counsel. The judge granted the motion and appointed a new lawyer to represent the complainant. The next month, the appointed attorney filed a motion to withdraw on the ground that the complainant no longer wanted representation and preferred to proceed *pro se*. The judge granted the motion and permitted the complainant to proceed *pro se* with standby counsel.

The allegations in the complaints relate directly to the rulings of the magistrate judge on the motion for a *Franks* hearing or of the district judge on the complainant's efforts to file pleadings *pro se* while represented by counsel. These 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); Rule 11(c)(1)(B). The allegations otherwise lack "sufficient evidence to raise an inference that misconduct has occurred." *See* Rule 11(c)(1)(D).

For these reasons, the judicial complaints are dismissed.

/s/ Steven M. Colloton  
Chief Judge

Filed: July 14, 2025

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