

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-25-90011

In re Complaint of John Doe*

This is a complaint of judicial misconduct filed by an inmate against a district judge who presided in his criminal case.

The complainant alleges that the judge did not handle his case fairly and impartially. The complaint alleges that the judge had a “conflict of interest in the proceedings,” and showed favoritism by denying an overwhelming number of the complainant’s motions and “granting everything the prosecutor submitted, showing that the judge sought to advance the position of the prosecutor.”

The complaint asserts that the judge’s actual bias in favor of the prosecutor is shown by seven “incidents”: (1) the judge’s adoption of the magistrate judge’s recommendation to deny the complainant’s motion to suppress; (2) the judge’s denial of the complainant’s motion for new counsel; (3) the judge’s denial of the complainant’s request to “physically view the government’s evidence (cell phone);” (4) the judge’s grant of the government’s motion to deny the complainant the ability to question witnesses about the warrant or probable cause; (5) the lack of a hearing to justify the complainant being placed in leg restraints during the trial, where he was *pro se* litigant; (6) the judge’s denial of the complainant’s jury instructions; and (7)

*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 judge's comment at sentencing that if the complainant had shown any contrition, the case would have been resolved in another manner besides trial. The complainant asserts that he was denied due process, a fair trial, and equal protection of the law.

The record shows that about two weeks before his scheduled trial date on multiple counts of sexual exploitation of a minor, the complainant filed a motion seeking replacement of his second court-appointed attorney. The judge held a hearing and denied the motion. The judge later granted the complainant's *pro se* motions for a continuance, and also scheduled a hearing regarding communication of plea offers. The judge denied the complainant's motion to view the prosecution's evidence as moot because he had been afforded an opportunity to view the evidence, including his cell phone, videos, and other exhibits. The judge denied the complainant's later request to view his cell phone again, because the complainant sought metadata that was provided in a forensic report and to the complainant's expert.

The complainant appealed his conviction. The court of appeals held that the complainant knowingly and voluntarily waived his right to counsel, his appearance in ankle restraints at trial was not plain error, and the judge properly instructed the jury.

The complainant specifies no conflict of interest other than alleged favoritism in favor of the prosecution. Cognizable misconduct does not include an allegation that calls into question the correctness of a judge's decision or procedural ruling. *See* Rules 4(b)(1), 11(c)(1)(B). An allegation that the judge improperly arrived at rulings with an illicit or improper motive is cognizable, but the complaint and record do not support any inference of improper motive for the adverse decisions. *See* Rule 4(b)(1) (improper motive includes bribe, *ex parte* contact, racial or ethnic bias, or improper conduct in rendering decision); Rule 11(c)(1)(D). Although the judge commented at sentencing about the complainant's lack of contrition, the judge also acknowledged

that he understood “pragmatically” that the complainant could not engage in any act of contrition, because it would be tantamount to entering a plea of guilty and admitting the charged conduct. A defendant’s contrition or lack thereof, and his pragmatic reasons for disputing the charges, are not impermissible considerations for a judge at sentencing.

For these reasons, the judicial complaint is dismissed.

/s/ Steven M. Colloton
Chief Judge

Filed: September 15, 2025
