

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-26-90081

In re Complaint of John Doe*

This is a complaint of judicial misconduct by a pro se plaintiff against a magistrate judge who presided in his civil action against an individual.

In addition to his misconduct complaint, the complainant has filed a motion requesting transfer to another judicial circuit under Rule 26. That rule provides that in “exceptional circumstances,” a chief judge or judicial council may ask the Chief Justice to transfer a proceeding to the judicial council of another circuit. Commentary to Rule 26 explains that such “transfers may be appropriate, for example, in the case of a serious complaint where there are multiple disqualifications among the original judicial council.” The complainant alleges that transfer is warranted because “the Judicial Council itself is named as the subject of the complaint, creat[ing] a serious conflict of interest.” The judicial complaint, however, is made against only one judge and not against the Judicial Council. I conclude that there are no exceptional circumstances warranting a transfer request under Rule 26.

The complainant alleges that the judge “overstepped her boundaries by acting as both the judge and the advocate/lawyer for the defendant’s side in [his] civil case.” In support of the allegation, the complainant asserts that after he filed proof of service, the judge “answered the complaint and defended the defendant.” The judge’s

*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.

action, he asserts, established a “conflict of interest.” The complainant asserts that “even if the summons was served on a third party, the defendant must still answer to the complaint.” The complainant attaches proof of service on the general counsel for “Veterans Affairs” filed on May 23, 2023, and the judge’s ruling of June 27, 2023, ordering the complainant to issue personal service on the defendant and not a third party. The complainant has also submitted a supplement, which consists of his objections to the judge’s order of June 27.

The complainant filed his action on a form entitled “Complaint for a Civil Case Alleging Breach of Contract” against one individual based on diversity jurisdiction. The complainant filed a proof of service form signed by a process server who averred that he served the summons on the general counsel for Veterans Affairs. About three weeks later, the complainant filed a motion for entry of default judgment. In a June 27 order, the judge denied the motion and directed the complainant to re-issue service. The judge noted that because the complainant paid the full filing fee, he was responsible for properly serving the defendant and had not done so. The judge found that the defendant was not personally served, the complainant was not suing “Veterans Affairs” or its general counsel, and nothing indicated that general counsel was an agent authorized to accept service for the defendant.

The judge later granted extensions of the deadline for completing service, and warned the complainant that failure to comply could result in dismissal without prejudice. The complainant filed a motion to disqualify the judge based on her ruling and filed another motion for entry of default. The judge denied the motions and dismissed the action without prejudice. The complainant appealed, and the court of appeals affirmed.

“Cognizable misconduct does not include an allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse.” Rule 4(b)(1). The complaint takes issue with the judge’s order of June 27 regarding service, and the

complaint is dismissed in that respect 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 complaint is otherwise dismissed as “frivolous” or “based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred.” Rule 11(c)(1)(C), (D). The allegation that the judge advocated for the defendant is refuted by the record.

For these reasons, the judicial complaint is dismissed.

/s/ Steven M. Colloton
Chief Judge

Filed: August 12, 2026
