

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-23-90095

In re Complaint of John Doe¹

This is a judicial complaint filed by a criminal defendant (“complainant”) against the United States district judge who presided over the complainant’s final supervised release revocation hearing.

The judicial complaint alleges that the district judge’s comments to the complainant during the hearing revealed the district judge’s bias against the complainant and demonstrated that the district judge “has a personal ‘[v]endetta’ against” the complainant. According to the judicial complaint, the district judge told the complainant that the judge could not sentence the complainant to the judge’s preferred sentence because the complainant would “beat it in Appeals Court.” The judicial complaint also alleges that the district judge stated that the complainant “sold drugs” and was a “drug dealer” when the complainant has “never been charged, nor convicted of a ‘drug crime.’” Finally, the judicial complaint alleges that the district judge “forced” the government to pursue one of the alleged violations of supervised release despite the government telling the district judge that it “does not have the resources” to pursue the allegation and lacked “adequate evidence to charge” the complainant with the violation.

¹Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit, the names of the complainant and the judicial officer complained against are to remain confidential, except in special circumstances not here present.

I have reviewed the transcript of revocation of supervised release. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). The transcript shows that the district judge never said anything to the complainant about “beat[ing] [a sentence] in Appeals Court.”² Nor did the district judge refer to the complainant as a drug dealer.³ Finally, the transcript shows that the district judge rejected the complainant’s “stipulat[ion] to all of the allegations with the exception of the first one.” The district judge “want[ed] to address” that alleged violation because it was “the most significant issue.” The district judge advised, “If you’re not prepared to move forward with the first allegation, we can continue the hearing and see what the government can present based on [the complainant’s] denial. So that’s the Court’s position.” The district judge “continue[d] [the hearing] for 30 days to take up all 11 allegations.”

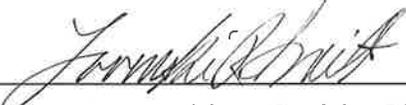
To the extent the judicial complaint challenges the district judge’s decision to continue the hearing, it must be dismissed as “directly related to the merits of a decision or procedural ruling.” 28 U.S.C. § 352(b)(1)(A)(ii); *accord* J.C.U.S. Rules 4(b)(1), 11(c)(1)(B). To the extent the judicial complaint alleges that the district judge was biased against the complainant, such allegations are “frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); *accord* J.C.U.S. Rule 11(c)(1)(C), (D).

²The government, not the district judge, made one reference to “an appeal.” The government “want[ed] to make sure the record [was] very clear that the defendant ha[d] notice” of the alleged supervised release violations in the event of “an appeal.”

³The government, not the district judge, explained that, in prosecuting another case, “it was discovered this extortion, which essentially was a drug dealer being extorted by a drug source.”

Accordingly, the judicial complaint is dismissed.

January 22, 2024



Lavenski R. Smith, Chief Judge
United States Court of Appeals
for the Eighth Circuit