

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-23-90099
JCP No. 08-23-90100
JCP No. 08-23-90101
JCP No. 08-23-90102
JCP No. 08-23-90108
JCP No. 08-23-90109

In re Complaint of John Doe¹

These are judicial complaints filed by a criminal defendant (“complainant”) against three United States district judges and two United States magistrate judges who, at various times, were assigned to the complainant’s case.

The first judicial complaint was filed against two district judges and two magistrate judges. It alleges that these judges were biased and discriminated against the complainant in their rulings and that some of them engaged in improper ex parte communications with the government and the complainant’s attorneys.

The second judicial complaint was filed against two district judges, including one of the district judges named in the first judicial complaint. It makes additional allegations against this judge. Specifically, it claims that the district judge’s “immediate ruling in response to a motion for recusal . . . is an admission of the very misconduct alleged in [the first] judicial complaint and [the] recusal motion.” The second judicial complaint also alleges that another district judge, who ruled on the

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.

complainant’s recusal motion against the aforementioned district judge, showed “clear bias” against the complainant, must have engaged in ex parte communications about the complainant, and engaged in “a deliberate effort to prevent the [complainant] from having access to discovery.”

I have reviewed the record, including the orders referred to in the judicial complaints. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). As a threshold matter, one of the district judges named in the first judicial complaint is now retired and no longer a “covered judge” subject to the Rules. J.C.U.S. Rule 1(b). As to the remaining two district judges and two magistrate judges, to the extent the judicial complaints challenge the judges’ orders, they 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 complaints allege that the judges were biased against the complainant, discriminated against the complainant, and engaged in ex parte communications, 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).

Accordingly, the judicial complaints are dismissed.

January 22, 2024



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