

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-23-90112

In re Complaint of John Doe¹

This is a judicial complaint filed by a criminal defendant (“complainant”) against the United States magistrate judge who recommended that the district court deny the complainant’s motion to suppress evidence.

The judicial complaint alleges that the magistrate judge “turned a blind eye to the substantial violations to [the complainant’s] constitutional rights” by recommending the denial of the complainant’s suppression motion despite previously recognizing during an evidentiary hearing that law enforcement failed to follow procedures established by state law. The judicial complaint alleges that, in denying the suppression motion, the magistrate judge was biased against the complainant.

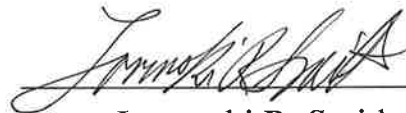
I have reviewed the record, including the evidentiary-hearing transcript and report and recommendation of the magistrate judge. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). In the report and recommendation, the magistrate judge explained that no precedent supported the complainant’s argument that “failure to comply with a . . . state statute violates the Fourth Amendment of the United States Constitution.”

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.

To the extent the judicial complaint challenges the magistrate judge’s report and recommendation, 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 magistrate judge was biased against the complainant in recommending denial of the suppression motion, such allegation is “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 complaint is dismissed.

January 22, 2024



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