

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-23-90125
JCP No. 08-23-90126

In re Complaint of John Doe¹

These are judicial complains filed by an inmate (“complainant”) against the United States district judge and United States magistrate judge assigned to the complainant’s criminal case and habeas case.

First, the judicial complaints allege that the complainant “was [d]enied his rights to a[n] extraordinary [h]earing, by a [m]agistrate [j]udge, or a [d]istrict [c]ourt judge . . . after [the complainant] was arrested.” Second, the judicial complaints allege that the complainant was denied a Rule 35 sentencing reduction that the government promised him and that the district judge was aware of. Third, the judicial complaints allege that the district judge has refused to order the government to respond to the complainant’s habeas claims despite the claims pending for nine months.

To the extent the judicial complaint challenges the district judge’s or magistrate judge’s rulings, 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* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rules 4(b)(1), 11(c)(1)(B). To the extent the judicial complaint alleges that the district judge conspired with the government to deprive the complainant of a Rule

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.

35 sentencing reduction, 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). Finally, “[c]ognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” J.C.U.S. Rule 4(b)(2). The complainant has failed to allege or provide evidence of an improper motive or habitual delay in rendering decisions in the habeas case.

Accordingly, the judicial complaints are dismissed.

January 25, 2024



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