

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-24-90009

In re Complaint of John Doe¹

This is a judicial complaint filed by a criminal defendant (“complainant”) against the United States district judge assigned to the complainant’s criminal case.

The judicial complaint alleges that “[t]he United States Attorney’s Office is attempting to enforce a DOJ policy, which [it] w[as] specifically directed not to enforce. The [district judge] is also allowing them to do so.” Attached to the judicial complaint are an order denying the complainant’s motion to reduce sentence and a pro se motion to re-file the motion to reduce sentence.

I have reviewed the record. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). It shows that the complainant filed a pro se motion to reduce sentence, and the government moved to dismiss the motion. The district judge then entered an order denying the motion to reduce sentence “because [the complainant] waived the right to have [the complainant’s] sentence modified under Title 18, United States Code, Section 3582(c)(2).” The district judge denied as moot the government’s motion to dismiss the complainant’s motion. The complainant then filed a pro se motion to re-file the motion to reduce sentence. That motion remains pending.

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 district judge’s order denying the motion to reduce sentence, 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 engaged in misconduct by allowing the government to follow a policy it was directed not to enforce, the allegations are dismissed as “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.

February 26, 2024



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