

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-24-90010

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 the district judge “usurped [the judge’s] authority and denied [the complainant] the right to have a 3-judge court to preside over [the complainant’s] case.” According to the judicial complaint, the district judge “dismissed [the complainant’s] case and misread [the complainant’s] papers” as a result of the judge’s alleged mental disability or due to an abuse of authority. The judicial complaint further alleges that the district judge “either knowingly misconstrued [the complainant’s compassionate-release motion] as a request for counsel” or denied the request due to the judge’s alleged mental disability. The judicial complaint alleges that the district judge was biased against the complainant in denying the motions and denied the complainant equal rights.

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 pursuant to 18 U.S.C. § 3582(c)(1)(A) and, indirectly, § 403 of the First Step Act of 2018. The district judge denied the motion, stating, “Even were all the circumstances alleged by

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.

the [complainant] to be considered, and even were this Court conferred with legal authority to conduct a plenary resentencing, the Court would today impose the same sentence for the defendant's crimes as was [previously] imposed."

Thereafter, the complainant filed a pro se motion requesting that the court enjoin the Bureau of Prisons from pressuring the complainant to increase restitution payments. The district judge denied the motion for injunction, advising that the complainant must pursue the claim "in the district of the [complainant's] incarceration, after exhausting any applicable administrative remedies." The complainant then filed a pro se motion asking the court to terminate the complainant's liability for the unpaid fine and restitution. The district judge denied the motion, stating that the complainant's "liabilities haven't terminated, and because [the complainant] was sentenced to life imprisonment, they may never terminate." In response to the district judge's orders, the complainant filed a pro se motion for "judicial review." The district judge denied the motion for judicial review for the reasons stated in the orders previously discussed.

The complainant next filed a "Sworn Affidavit in Support of Motion for Appointment of Counsel." The district judge construed this as a document "in support of a request for appointed counsel to pursue relief under the First Step Act and U.S.S.G. Amend. 821, based on alleged 'gross disparity in [the complainant's] sentence.'" The district judge denied the motion, stating, "It is not clear whether this filing is itself meant to be a motion to appoint counsel. Nonetheless, to the extent that the filing is intended to appoint counsel," the district judge denied the motion for the reasons stated in its order denying the complainant's motion to reduce sentence.

Most recently, the complainant filed a motion to reduce sentence, which remains pending on the docket. Shortly thereafter, the complainant filed *another* motion to reduce sentence. The district judge denied the second motion to reduce sentence for the reasons previously stated in its prior order denying the complainant's motion to reduce sentence.

To the extent the judicial complaint challenges the district judge's orders denying the complainant's various motions, 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 suffers from a mental disability, abused the judge's authority, or was biased against the complainant, 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 27, 2024



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