

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP Nos. 08-15-90057/08-15-90058/08-15-90059

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In re Complaint of John Doe<sup>1</sup>

This is a judicial complaint filed on November 27, 2015, by a federal pretrial detainee being held at a state county jail. He complains about two federal district court judges and the federal magistrate judge assigned to his case.

The complainant alleges one district judge violated his rights by letting a prosecutor “speak without interruption” at a pretrial hearing, but “cutting [the complainant] off and not giving him adequate time to get facts on record”; by failing to send the complainant a copy of the order or minutes from the hearing; by scheduling a trial date after the holidays (it is unclear whether the complainant thinks the date should have been earlier or later); by giving the complainant short notice of another hearing; by refusing to let the complainant file an in-camera motion to remove his standby counsel; by disregarding a motion the complainant filed seeking to appeal issues related to his detention and evidence in his case; by falsely denying knowing about the complainant’s case; and by deciding to review the complainant’s subpoena requests in light of prior denials. The complainant claims the district judge thus “arbitrar[ily],” “intentional[ly],” and “willful[ly]” disregarded various constitutional, statutory, regulatory, and procedural requirements because the complainant is an “African-American, poor/indigent and pro-se litigant who is,” in the eyes of the district judge, “unworthy of the protection of the fullest extent of law

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<sup>1</sup>Under 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 judges complained about are to remain confidential, except in special circumstances not present here.

[sic].” The complainant also claims the district judge was motivated by a desire to “protect[] his colleagues from perjury charges, criminal charges, obstruction of justice charges, and judicial misconduct scrutiny.”

The magistrate judge, according to the complainant, “violated the same laws” as the district judge and “his bias is racially based as well as because complainant [sic] is poor and pre-trial federal pro-se litigant.” Specifically, the complainant accuses the magistrate judge of continuing his trial without his consent to help the prosecutor violate his constitutional rights; violating the complainant’s “right of witnesses in his favor by closing the Court” to prevent him from challenging his court-appointed attorney’s performance, claiming he was denied a speedy trial, and attacking the factual basis for search warrants executed in his case; failing to give him an inventory or receipt for property taken in the execution of the search warrants; and failing to “hold [the prosecutor] accountable” for talking to the press and releasing information about the complainant’s alleged crimes before he was charged.

The other district judge was originally assigned to the complainant’s case , and the complainant asserts he is therefore “responsible for the actions of [the magistrate judge].” The complainant also alleges the district judge “allowed” the clerk of the district court “to obstruct justice and violate complainant’s due process and civil rights” by delaying filing a motion the complainant submitted, incorrectly filing pages of another document, and mischaracterizing the nature of the complainant’s pending motion in a supplement to his notice of appeal.


Finally, the complainant generally suggests his rights were violated by delays in scheduling and disposing of his case, but does not attribute the delays to any particular judge.

The complainant’s allegations cannot be raised in a judicial complaint because the supposed misconduct he complains of is all “directly related to the merits of [the

judges’] decision[s] or procedural ruling[s].” 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.) Rule 11(c)(1)(B). Although the complainant’s allegations of improper discriminatory motives do not necessarily implicate the merits of the judges’ decisions, the only support for his allegations are the decisions themselves, so they must also be dismissed as merits-related. See J.C.U.S. Rule 3(h)(3)(A). And the complainant’s unsupported intimations of corruption and collusion are “frivolous” and “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).

The complaint is dismissed.

February 8, 2016

  
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William Jay Riley, Chief Judge  
Eighth Circuit