

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-15-90067

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

This is a judicial complaint filed on December 11, 2015, by a federal prisoner against the district judge who convicted and sentenced him after he pled guilty. The complaint centers on one police report from a compilation presented at the complainant's sentencing. The district judge sealed the compilation because "[i]t includes much sensitive information regarding the victim of [the complainant's] offense" and "should have been sealed at the time of sentencing." The complainant repeatedly sought access to the report and eventually obtained a copy.

As relevant, the report states that while the police were at the complainant's residence, waiting for a warrant to search his room, they told the complainant's housemate to "return" an item—which the complainant says was later used as evidence against him—to the complainant's room. The complainant characterizes that conduct as "tampering" with and "planting" evidence. On the other hand, according to the complainant, the report does not actually contain information about the victim of his offense—contrary to what the district judge said when he sealed it. Further, a local newspaper, which reported on the complainant's arrest the day after it happened, was purportedly given access to the complainant's "arrest report."

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<sup>1</sup>Under Rule 4(f)(1) of the Eighth Circuit Rules Governing Complaints of Judicial Misconduct and Disability (E.C.), the names of the complainant and the judge complained about are to remain confidential, except in special circumstances not present here.

The complainant claims the report demonstrates the district judge “abused his position of authority, and acted in collusion with the U.S. Prosecutor [and the complainant’s court-appointed attorney] to hide exculpatory case evidence.” Complainant insists he “is not arguing that [the district judge] had made a mistake regarding the merits of his [order sealing the police reports].” Because the only support for the complainant’s allegations that the district judge had an improper motive for sealing the report is the order itself, the complaint 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 3(h)(3)(A), 11(c)(1)(B); see also 28 U.S.C. § 352(b)(1)(A)(iii) (calling for dismissal of complaints “lacking sufficient evidence to raise an inference that misconduct has occurred”); J.C.U.S. Rule 11(c)(1)(D).

Finally, although the complaint for the most part correctly focuses on actions of the district judge, I note that the complainant’s allegations of misconduct by his attorney and the prosecutor are beyond the scope of the judicial-complaint process, which applies only to United States judges. See 28 U.S.C. § 351(a), (d)(1); J.C.U.S. Rule 4; E.C. Rule 1(c).

The complaint is dismissed.

February 23, 2016

  
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William Jay Riley, Chief Judge  
Eighth Circuit