

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP Nos. 08-16-90040/08-16-90041

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

These are two judicial complaints filed on April 18 and April 19, 2016, by a federal prisoner against the United States magistrate judge assigned to pretrial matters in the complainant's criminal trial and the chief United States district judge of the district court where the complainant was tried. The complainant previously filed a judicial complaint against the United States district judge presiding over his criminal case and a petition for a writ of mandamus with the Eighth Circuit Court of Appeals, raising issues similar to those in this complaint. The previous complaint was dismissed and the writ of mandamus denied.

The complainant contends the magistrate judge "fail[ed] to 'Ensure' [the complainant's] right to be heard; in violation of The Code of Judicial Conduct." The complainant reports he filed an "Ex Parte Supplemental Brief" notifying the magistrate judge that the complainant's federal public defender had not provided complainant access to discovery and "that the arrest warrant and search warrant was [sic] obtained on information of 'Perjury Or Reckless Disregard For The Truth.'" According to the complainant, the magistrate judge "REJECTED this document without reading it" because the complainant was represented by counsel. The complainant states he "did the only thing [the complainant] could do" because his attorney "failed to protect [the complainant's] rights."

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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 judges complained about are to remain confidential, except in special circumstances not present here.

In his second complaint, the complainant charges the chief district judge—who did not participate in the complainant’s case—with “NEGLECT OF DUTIES and OBLIGATIONS in violation of [the state] CODE OF JUDICIAL CONDUCT.” The complainant discusses issues of “improper conduct” related to his attorney and individuals in the United States Attorney’s Office. The complainant emphasizes his belief that his attorney was not updating him appropriately about the complainant’s case. The complainant attaches to the complaint numerous articles of correspondence between the complainant and the complainant’s attorney. The complainant states he reported his grievances concerning his attorney and the United States Attorney’s Office to the chief district judge because the magistrate judge did not address them to the complainant’s satisfaction. The complainant laments that the chief district judge “never took any action on [the complainant’s] documents of complaints.”

The complainant’s challenge to the magistrate judge’s decision not to accept his filing must be dismissed because it is “directly related to the merits of a decision or procedural ruling.” See 28 U.S.C. § 352(b)(1)(A)(ii); 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). Any of the complainant’s implications that the magistrate judge or chief district judge may have been dilatory in addressing the complainant’s concerns must be dismissed as merits-related because any alleged “delay in rendering a decision or procedural ruling” is not “conduct prejudicial to the effective and expeditious administration of the business of the courts” within the meaning of 28 U.S.C. § 351(a). See J.C.U.S. Rule 3(h)(3)(B).

The complainant’s assertion that the chief district judge did not respond to the complainant’s correspondence “lacks 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)(D). To the extent the complainant raises complaints against his attorney and individuals at the United States Attorney’s Office, they must be dismissed because

the judicial complaint procedure pertains 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 complaints are dismissed.

June 1, 2016



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William Jay Riley, Chief Judge  
Eighth Circuit