

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-18-90044

JCP No. 08-18-90048

In re Complaint of John Doe¹

These are judicial complaints filed by a criminal defendant against the United States magistrate judge assigned to his case.

The judicial complaints allege that the magistrate judge (1) committed perjury by entering an order denying the defendant's motion to represent himself because the order claims the defendant did not claim such a right; (2) sentenced the defendant based on a witness who was never examined by the defense; (3) recited derogatory rap lyrics on the record; (4) conspired in a conference privately with a lawyer assigned to another defendant and a prosecutor to discuss the outcome of the defendant's case without the defendant present.²

The criminal defendant's bare, speculative allegations, including the conspiracy allegation, "lack[] sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii); *accord* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(D). Accordingly, they must be dismissed.

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.

²As of the date of this filing, the record reflects that the defendant has not yet pleaded guilty, gone to trial, or been sentenced.

The complaints are dismissed.

August 20th, 2018



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