

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-18-90058

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se debtor against the United States bankruptcy judge presiding over the debtor's bankruptcy. The judicial complaint stems from the bankruptcy judge's denial of the debtor's motion for recusal in the debtor's present bankruptcy. In that motion, the debtor alleged that in the debtor's 2016 bankruptcy case, the bankruptcy judge ignored the law and permitted a student loan debt that was previously discharged in the debtor's 1995 bankruptcy. The debtor asserted that the bankruptcy judge had previously recused in the debtor's 2005 bankruptcy involving the same student loan creditor as in the 1995 bankruptcy. The debtor suspected that the student loan creditor had been collecting on the debt since 2006. According to the debtor, the bankruptcy judge determined in the 2016 case that the debt owed for the student loan that was discharged in the 1995 bankruptcy. The debtor noted that the bankruptcy judge filed an administrative order dismissing the debtor's 2016 case for violation of strict compliance. In addition, the debtor noted that in the present bankruptcy, the bankruptcy judge granted another creditor the right "to start foreclosure proceedings against debtor['s] property *while* debtor is in on-going bankruptcy." The debtor concluded in the recusal motion that the bankruptcy judge "has been bias[ed] and thus [the judge] should recuse himself."

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.

In addition to citing the substance of the recusal motion as a basis for the judicial complaint, the judicial complaint also alleges that the bankruptcy judge “has shown a bias against pro-se, black homeowners in [the debtor’s] opinion.” The debtor bases this “opinion” on the debtor’s observation of the judge “tell[ing] a black elderly homeowner (over 65) that it was in his best interest to *also* give up his property.” The judicial complaint also challenges the judge’s “refusal to [give] conclusion[s] and reason[s] [for] any of [the judge’s] [o]rders/rulings. . . . So you cannot find out what law Judge actually used without purchasing a transcript.”

The debtor’s bare, speculative allegations are “frivolous, lacking 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)(C)-(D). To the extent the judicial complaint challenges the bankruptcy judge’s denial of the recusal motion and other orders of the bankruptcy judge, the judicial complaint’s allegations are “directly related to the merits of a decision or procedural ruling” and therefore must be dismissed. 28 U.S.C. § 352(b)(1)(A)(ii); *accord* J.C.U.S. Rule 11(c)(1)(B); *see also* J.C.U.S. Rule 3(h)(3)(A) (“An allegation that calls into question the correctness of a judge’s ruling, . . . without more, is merits-related.”). Accordingly, the allegations must be dismissed.

The complaint is dismissed.

October 26, 2018



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