JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-19-90018

In re Complaint of John Doe[1]

This is a judicial complaint by a pro se federal defendant against the United States magistrate judge who presided over the defendant's preliminary hearing and detention hearing. At the outset of the hearings, the defendant moved to continue the hearings in order for him to retain private counsel. The magistrate judge denied the defendant's motion. The magistrate judge found probable cause and ordered the defendant detained pending trial.

The defendant filed a pro se appeal of the magistrate judge's probable cause determination, arguing that the preliminary hearing should have been postponed to permit him to retain a lawyer of his choosing and then have another probable cause determination. The district court denied the defendant's pro se appeal of the magistrate judge's probable cause determination.

The judicial complaint alleges that the magistrate judge compelled the defendant to have a preliminary hearing and forced the defendant to have a federal public defender represent the defendant in that hearing. The judicial complaint contends that the magistrate judge violated the rules of professional conduct by compelling the defendant to have the preliminary hearing.

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[1]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 judicial officer complained against are to remain confidential, except in special circumstances not here present.

These allegations are directly related to the merits of the magistrate judge's decisions or procedural rulings and are not cognizable in a judicial complaint. *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 4(b)(1), 11(c)(1)(B). Accordingly, the allegations must be dismissed.

The complaint is dismissed.

April 24th, 2019

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