

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-19-90047

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se litigant against the United States district judge who dismissed the litigant's § 1983 civil rights action.

The record shows that after granting summary judgment in favor of the defendants, the district judge entered a judgment dismissing the case on January 29, 2018. Attached to the judgment was a civil notice advising the complainant of the time frame to file a notice of appeal. On February 27, 2018, the complainant's attorney moved to withdraw. The next day, the complainant filed a pro se motion to extend the appeal deadline. In that motion, the complainant stated, "My attorney . . . failed to file notice to the court that he was no longer my attorney and the court is refusing to talk to me." The district judge subsequently granted counsel's motion to withdraw but denied the complainant's pro se motion to extend the appeal deadline.

The complainant then filed a pro se motion, requesting (1) "to work with a non-attorney to go over the case files, notes and records listed as confidential or sealed," and (2) "reconsideration of the denial to vacate the summary [j]udg[ment]." The district judge denied the motion. Although the district judge found the complainant's motion "unclear," it construed the motion as objecting to the magistrate judge's

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.

“[o]rder sealing certain documents in the case.” The district judge concluded that the complainant failed to show that the magistrate judge’s order was erroneous; the district judge also found the motion untimely. “To the extent that [the complainant] disagree[d] with the [c]ourt’s January 26, 2018, Order granting summary judgment in favor of Defendants,” the district judge stated, the complainant “must comply with the Local Rules in seeking reconsideration of that Order.”

On June 29, 2018, the complainant, acting pro se, filed a notice of appeal. The Eighth Circuit dismissed the appeal for lack of jurisdiction.

The judicial complaint alleges that the district judge’s denial of the complainant’s “ADA accommodation request and . . . request to extend the deadline for filing an appeal” “constitutes misconduct.” The judicial complaint contends that, because the district judge denied the motion, the complainant “was unable to flesh out the reasons for [the] appeal since [the complainant] could not share the sealed information to allow [the complainant] to get help to write the appeal.”

These allegations are directly related to the merits of the judge’s decisions 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.

October ^{28th}, 2019



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