

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90012

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se litigant against the United States magistrate judge assigned to the complainant's civil action.

The judicial complaint alleges the magistrate judge treated the complainant "in a demonstrably egregious and hostile manner." According to the judicial complaint, the magistrate judge held a hearing on the complainant's motion for default. At that hearing, the complainant claims that the magistrate judge "asked [the complainant] to sign a document of several pages in length which [the magistrate judge] explained was required to begin [the magistrate judge's] adjudication of the case" under 28 U.S.C. § 636. The complainant states, "Following the instructions of the judge[,] I did sign the document and handed the document back to [the magistrate judge]. When I asked whether I could read the document in the record[,] [the magistrate judge] said it would not appear in the record." The complainant also claims that the magistrate judge "would not allow me to read what I had just signed or have a copy of it." The complainant maintains, "It has been suggested to me, always in a veiled manner precluding further inquiry, that the document to which [the magistrate judge] obtained my signature by deceit was a plea bargain. I am unable to verify whether that is true."

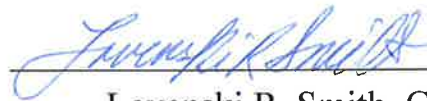
¹Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit, the names of the complainant and the judicial officer complained against are to remain confidential, except in special circumstances not here present.

The record shows that at the hearing on the complainant’s motion to enter a default judgment, the magistrate judge set a proposed trial date and “inform[ed] parties of the option to consent to magistrate.” Ultimately, however, it was the district judge—not the magistrate judge—who adjudicated the complainant’s civil action. The district judge granted the defendants’ motion for summary judgment and dismissed the complainant’s civil action. Furthermore, a query of the district court’s filing system reveals no plea bargain filed in any case involving the complainant.

Having reviewed the record, I conclude that the complainant’s allegation that the magistrate judge treated the complainant “in a demonstrably egregious and hostile manner” by instructing the complainant to sign a consent form that was actually a plea bargain is “frivolous [and] lack[s] 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.) 11(c)(1)(C), (D).

The complaint is dismissed.

3/3/2020, 2020



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