

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90106

In re Complaint of John Doe¹

This is a judicial complaint filed by an inmate against the United States magistrate judge assigned to the inmate's § 1983 action. *See* 42 U.S.C. § 1983.

The judicial complaint alleges that after the magistrate judge's orders "destroyed [the complainant's] claim" in another § 1983 action, the complainant "filed a second civil action." According to the complainant, "instead of making this a new civil action as . . . indicated, [the magistrate judge] order[ed] the clerk . . . to file it as an amendment to the case pending." The complainant asserts that the magistrate judge "usurped . . . power of the bench [by] order[ing] the clerk to file the new complaint as an amendment to an existing case," thereby enabling the magistrate judge to "dismiss it and prevent [the complainant] from filing a new civil action." The complainant asserts the magistrate judge's action violated the complainant's constitutional rights.

I have reviewed the record. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). I conclude that the judicial complaint is devoid of any evidence to substantiate the complainant's claims that the magistrate judge "usurped power" in managing the complainant's § 1983 action. Therefore, the allegations must be dismissed as

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.

“frivolous [and] lacking sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); *accord* J.C.U.S. Rule 11(c)(1)(C), (D). Moreover, to the extent the judicial complaint challenges the magistrate judge’s decisions or orders, the allegations must be dismissed because they are “directly related to the merits of a decision or procedural ruling.” 28 U.S.C. § 352(b)(1)(A)(ii); *accord* J.C.U.S. Rules 4(b)(1), 11(c)(1)(B).

The judicial complaint is dismissed.

August 10, 2021



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