

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90107

In re Complaint of John Doe¹

This is a judicial complaint filed by an inmate (“complainant”) against the United States district judge assigned to three of the complainant’s § 1983 actions, *see* 42 U.S.C. § 1983, and the complainant’s petition for habeas corpus relief. *See* 28 U.S.C. § 2255.

The judicial complaint alleges that, in dismissing the complainant’s § 2255 petition, the district judge “supported false allegations made by the prosecutor [by] stating the docket sheet support[ed] the claim that the court gave permission for the prosecutor to obtain [a] filed[,] underseal attorney[-]client privilege communication.” The complainant also alleges that the district judge “showed favoritism to the opposing party[] and denied [the complainant] due process [by] . . . refus[ing] to allow [the complainant] access to [a] . . . DVD to support [the complainant’s] claim.” The complainant maintains that “the language used in the transcribed transcript was not what was said, and the district [judge] used this language in support of [the] ruling.”

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). The record shows the district judge denied the complainant’s motions asking for an

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.

order directing the government to dismiss the complainant's criminal case. In doing so, the district judge rejected the complainant's arguments "that the [g]overnment improperly admitted evidence of [the complainant's] recorded interviews [and] that the [g]overnment obtained copies of the sealed transcript . . . where [the complainant] discussed his wishes as to who would represent him." The record also shows that the district judge denied the complainant's motion to compel discovery to obtain the video recording.

The judicial complaint also alleges that, in the first complained-of § 1983 action, the district judge erroneously "reversed" the previous district judge's summary-judgment ruling and lacked jurisdiction to "[a]lter or [a]mend a judgment filed after 28 days of the entry of judgment." The record, however, shows that after the prior district judge denied in part and granted in part the defendants' motion for summary judgment, the parties advised the complained-of district judge "that this action has been settled." Accordingly, the district judge denied without prejudice all pending motions and vacated the trial setting. Thereafter, the district judge entered an order of dismissal.

Regarding the second complained-of § 1983 action, the judicial complaint alleges that six years after the complainant paid off all filing fees, "the district court clerk . . . contact[ed] [the prison] and ha[d] [it] charge to [the complainant's] account . . . without a[] court order." According to the complainant, the district judge never issued a court order authorizing the charges. The complainant contends that the district judge's allowance of the charges demonstrates that the district judge "was engaging improperly with opposing parties, giving special treatment, and abusing judicial office." The record, however, shows that the complainant filed a motion for reimbursement, "seeking an [o]rder directing that funds stop being withdrawn from [the] prison account to pay the filing fee in this matter, and that funds already deducted be returned to [the complainant]." The district judge denied the motion, explaining that (1) the complainant's "voluntary dismissal of this action does not excuse or negate his obligation to pay the filing fee in full," and (2) the district judge

had “ordere[d] the agency having custody of plaintiff to pay or withhold 20% of [the] monthly account balance from [the] prison account and sent a letter to the custody detailing this.”

The complainant also alleges that, in the third complained-of § 1983 action, the district judge “advocated for the [d]efendant[s] by ruling against the facts found in the records,” “corrected defendant[s]’ errors,” “refused” to permit the complainant to take the defendants’ depositions. In support of these allegations, the complainant includes an exhibit consisting of selected pages from the district judge’s memorandum and order denying several of the complainant’s motions.

I conclude that the judicial complaint is devoid of any evidence to substantiate the complainant’s claims that the district judge was biased against the complainant and conspired with the opposing parties. Therefore, the allegations must be dismissed as “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, the judicial complaint challenges the district judge’s decisions and orders and, therefore, must be dismissed because it “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 14, 2021



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