JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90108

In re Complaint of John Doe[1]

This is a judicial complaint filed by a civil litigant (who is also an attorney) against the United States district judge assigned to the complainant's civil case.

In the judicial complaint, the complainant alleges that the district judge

> has treated me in a demonstrably egregious, racist and hostile manner by commenting on my filing lawsuits for my constitutional rights. [The district judge] is racist, lacks the intelligence, the judgment and the temperament to be a federal judge based upon [the district judge's] egregious personal attacks of me and the hostile manner in which he launches his racist opinion about the fact that I do not have the judgment and temperament to be appointed to the federal and state court to represent an individual where his personal liberty is at stake although I won an acquittal in my first federal criminal jury trial in [federal court].

In support of these allegations, the complainant cites orders in which the district judge referred to the complainant's lawsuits as "frivolous." The complainant maintains that the district judge's characterization of the lawsuits as "frivolous" is

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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.

undermined by the fact that "the U.S. Supreme Court has docketed [one of the cases]."[2]

Additionally, the complainant asserts:

> The [district] judge is ruining my reputation by stating that I am not qualified to be appointed [to represent defendants in criminal cases] when I was already appointed to a murder case in [state court] and I won my first federal criminal jury trial after I was appointed by the CJA Panel in [a federal] case.

The complainant maintains that "the [district] judge must stop stating in the opinion [the district judge's] personal racist animosity towards [the complainant]." The complainant asserts that, in total, "[t]hree white male judges have accused [the complainant] of filing frivolous motions in more than 20 years of practice and two of those judges have recused themselves in subsequent cases involving [the complainant]."[3]

According to the judicial complaint, the state in which the complainant practices law is a "racist state" and "local white judges appear to adhere to . . . racial discrimination." The complainant contends that "[a]ll of the African American male attorneys in solo practice who practice criminal law and personal injury law for 25 or more years in [the state] either resign or die from the extreme racial stress of practicing law in the racist [state] courts." And, the complainant claims, the courts in the state use a "racist playbook to destroy black attorneys" by "first attack[ing] their competency." The complainant alleges that the district judge "follow[s] the racist playbook to the letter, "is an angry white man who is upset [the complainant] sued a

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[2]The record reflects that the Supreme Court denied the complainant's petition for certiorari.

[3]No other federal judge is the subject of this judicial complaint.

white female judge and whites in [the complainant's] lawsuits," and "is wrong based on [a] lack of intelligence and the racism in [the district judge's] decisions." As a result, the complainant asserts, "[t]he judge has disparaged [the complainant's] trial ability and . . . ability as a criminal jury trial attorney without watching [the complainant] in trial."

I have reviewed the record, including the exhibits and orders referenced in the judicial complaint in support of the allegations. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). In an order dismissing certain defendants from the complainant's civil lawsuit, the district judge stated in its conclusion:

> The Court has concerns about the conduct of [the complainant] in repeatedly filing federal and state litigation in response to what he deemed to be an unfavorable result in an attorney's fees award and then a subsequent bar complaint arising from a probation matter in [state court]. [The complainant] has now filed four lawsuits against a judge and various political entities. [The complainant], as a lawyer who alleges that he has practiced law for twenty-six years, is well-aware of the standard of conduct required for an attorney.
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> It is clear that [the complainant] has previously utilized his legal abilities to bring important matters to the forefront of discussion in our society. But this does not justify repeatedly filing what is essentially the same *frivolous* lawsuit in an effort to get back at a judge who gave him an unfavorable ruling and reported his conduct to the bar authorities.

(Emphasis added.)

The complainant then filed a recusal motion, "argu[ing] that all [judges within the federal district] should recuse themselves due to racial bias," including the district judge. In support, the complainant "cite[d] an amalgamation of case law relating to impartiality, civil rights, and the United States Constitution" and "refer[ed] to state-

court litigation, rampant judicial racism, and a variety of tangential topics." In denying the recusal motion, the district judge noted that "[m]any of these complaints have already been the subject of unsuccessful federal or state litigation." Furthermore, the district judge stated, the complainant failed "to make any specific allegations as to the undersigned judge that would remotely support [a] motion for recusal or which would support [a] claim of 'racial bias' on the part of the [district] judge." The complainant only "cite[d] his removal from the CJA panel as support for his recusal motion." The district judge explained that the judge "had nothing to do with that decision because it was allegedly made . . . prior to the [district] judge's confirmation . . . as a federal judge." The district judge concluded that "an average individual with knowledge of the described timeline and context would likely find [the complainant's] allegations to be baseless, frivolous, unprofessional, and illogical, just as [the district judge] d[id]." In a footnote, the district judge cited its conclusion from the first order that the complainant "has filed *frivolous* pleadings or motions." (Emphasis added.) The district judge also commented that the complainant's "conduct in this case . . . certainly does not support the notion that he has the judgment and temperament necessary to be appointed by a state or federal court to represent defendants in criminal cases where the defendant's personal liability is at stake."

Having reviewed the record, I conclude that the district judge's orders upon which the complainant relies do not substantiate the complainant's allegations of racism, discrimination, and hostility by the district judge toward the complainant. Nor has the complainant produced any other evidence to substantiate the allegations. Therefore, the allegations must be dismissed as "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 that the judicial complaint "calls into question the correctness of" the district judge's orders, the judicial complaint must also be dismissed as "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.

October 22, 2021

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