

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-21-90073

JCP No. 08-21-90078

In re Complaint of John Doe¹

This is a judicial complaint filed by an inmate (“complainant”) against the United States district judge and United States magistrate judge assigned to the complainant’s civil rights action.

The judicial complaint alleges that the district judge and magistrate judge permitted the defendant’s counsel to belatedly enter an appearance; violated Federal Rule of Civil Procedure 16 in belatedly issuing a scheduling order; failed to respond to the complainant’s letters to the court; and failed to timely enter orders on the complainant’s motion to amend complaint, motion to strike, motion to compel, motion for summary judgment, and motion for discovery. The judicial complaint further alleges that the judges’ actions show bias.

To the extent that the judicial complaint’s allegations challenge orders of the district judge and magistrate judge, they must be dismissed as “directly related to the merits of a decision or procedural ruling.” 28 U.S.C. § 352(b)(1)(A)(ii); *accord* 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). To the extent the judicial complaint alleges delay in rendering decisions, “[c]ognizable misconduct does not

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.

include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” J.C.U.S. Rule 4(b)(2). Here, there is no evidence presented of “improper motive” or “habitual delay in a significant number of unrelated cases.” *See id.* To the extent the judicial complaint alleges that the district judge and magistrate judge were biased against the complainant, the allegations are “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).

Accordingly, the judicial complaint is dismissed.

May 23, 2022



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