

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-22-90028

In re Complaint of John Doe¹

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

The judicial complaint alleges that the district judge “conspired and colluded” with a Supreme Court justice, the FBI Director, and a United States Senator “to deprive [the complainant] of [the complainant’s] rights to an investigation into [the] factual allegation that subpoenas w[ere] never issued to the defendants” in the civil-rights action. The judicial complaint further alleges that the district judge engaged in “unauthorized conversation with” a Supreme Court justice, the FBI Director, and a United States Senator and that these parties “individually and acting in concert, deliberately and with reckless disregard of the truth, solicited, fabricated[, and] manufactured an order from a complaint that [does not] exist in the clerk of court files and coerced evidence they knew, or reasonably should have known, was false.” According to the complainant, the district judge “prepared a false court order.”

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 that another district judge dismissed the complainant’s civil-rights action in 2012. Then, in 2022, the complainant sent correspondence to the district

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.

judge, which was construed as a motion for status. In the motion, the complainant asked the district judge to investigate why no subpoenas were issued in the case despite the complainant's payment of the filing fee. The complainant requested that the district judge forward the motion to certain individuals, including a Supreme Court justice, the FBI Director, and a United States Senator. The district judge denied the motion for status. The district judge explained that "no subpoenas were issued in this case because [the complainant] failed to pay the initial partial filing fee by the July 23, 2012 deadline as ordered by the court." As a result, the prior district judge to whom the case was assigned had "dismissed this matter without prejudice on August 14, 2012." The district judge noted that the court mailed copies of the order and judgment to the complainant. The district judge further explained:

The Docket Sheet shows [the complainant's] institution started collecting and remitting payment of the \$350.00 filing fee to this court in January 2013. The dismissal of [the complainant's] suit on August 14, 2012, did not relieve him from his obligation to pay the \$350.00 filing fee. As Plaintiff was advised when he was granted leave to proceed in forma pauperis in this case (filing 6), the Prison Litigation Reform Act "makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal," and Plaintiff would remain responsible for the entire filing fee, as long as he is a prisoner, even if the case was dismissed at some later time.

To the extent that the judicial complaint's allegations challenge the district judge's order denying the motion for status, 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* J.C.U.S. Rules 4(b)(1), 11(c)(1)(B); J.C.U.S. Rule 3(h)(3)(A) ("Cognizable misconduct . . . does not include . . . an allegation that is directly related to the merits of a decision or procedural ruling. An allegation that calls into question the correctness of a judge's ruling, including a failure to recuse, without more, is merits-related."). To the extent the judicial complaint alleges that the district judge conspired or colluded with other parties or engaged in other improper conduct, 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)(D).

Accordingly, the judicial complaint is dismissed.

July 8, 2022

Lavenski R. Smith

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