

Judicial Council of the Eighth Circuit

JCP No. 08-17-90048

In re: Complaint of John Doe¹

Before WOLLMAN and COLLOTON, Circuit Judges, and PERRY and HICKEY, District Judges, Review Panel of the Judicial Council of the Eighth Circuit.²

The complainant has filed a petition for review of Chief Judge Smith's order dismissing his complaints alleging judicial misconduct. The petition was referred to a review panel of the judicial council under Rule 8 of the local rules governing complaints of judicial misconduct and disability. As to the original complaint filed May 4, 2017, except for the allegation relating to extrajudicial writing by the subject judge, the review panel affirms the dismissal for the reasons given by the chief judge. The complaint about extrajudicial writing was raised again in a supplemental complaint filed August 30, 2017.

As to the supplemental complaint, the chief judge concluded that none of the allegations concern "cognizable misconduct" under Rule 3(h) of the Judicial Conference Rules for Judicial-Conduct and Judicial-Disability Proceedings. On the petition for review of this conclusion, the review panel is divided. Judge Perry and Judge Hickey would affirm the dismissal for the reasons given by the chief judge. Judge Wollman and Judge Colloton conclude that the supplemental complaint alleges

¹Under Rule 19(d) of Judicial Conference Rules for Judicial-Conduct and Judicial-Disability Proceedings, this memorandum of decision must not include the name of the complainant or the subject judge.

²The fifth member of the review panel, District Judge Rossiter, recused himself in this matter.

cognizable misconduct, but that the complaint proceeding may be concluded because the subject judge has taken appropriate voluntary corrective action that acknowledges and remedies the problems raised by the complaint. *See* JCUS Rule 11(d). Accordingly, the complaint proceeding is concluded.

December 4, 2018

Order Entered at the Direction of the Eighth Circuit Judicial Council.
Clerk, United States Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans
