

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-17-90070

JCP No. 08-17-90071

In re Complaint of John Doe¹

These are judicial complaints filed by a criminal defendant against the United States magistrate judge and the United States district judge assigned to his case.

The judicial complaint against the magistrate judge alleges that the magistrate judge violated the complainant's Sixth Amendment right to counsel by not permitting him to proceed pro se. Additionally, the complainant alleges that the magistrate judge "might be in [a] conspiracy" with members of the Federal Bureau of Investigation based on the magistrate judge permitting certain testimony.

The judicial complaint against the district judge alleges that the district judge is in a conspiracy with the magistrate judge to falsely prosecute and falsely imprison the complainant. The complainant further alleges that through this conspiracy, the district judge has "allowed for the harassment of [complainant] via illegal use of the legal system." Additionally, the complainant challenges the district judge's order denying the complainant's pro se appeals of the certain decisions of the magistrate judge because the complainant is represented by counsel.

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.

The judicial complaints' allegations are "directly related to the merits of a decision or procedural ruling" and therefore must be dismissed. 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.) Rule 11(c)(1)(B); *see also* J.C.U.S. Rule 3(h)(3)(A) ("An allegation that calls into question the correctness of a judge's ruling . . . without more, is merits-related."). As to the judicial complainants' bare, speculative allegations that the magistrate judge and the district judge conspired with one another and others, such allegations "lack[] 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).

The complaint is dismissed.

September 16th, 2017



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