

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-19-90037

JCP No. 08-19-90038

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In re Complaint of John Doe<sup>1</sup>

This is a judicial complaint filed by a pro se inmate against the United States district judge and magistrate judge who presided over the inmate's civil rights action alleging sexual harassment by state defendants.

The inmate's complaint alleged that through two types of technology, several of the defendants entered the inmate's mind and sexually harassed, molested, and raped the inmate in his dreams and that other defendants failed to resolve the situation pursuant to grievances and complaints that the inmate filed. The magistrate judge recommended that the district judge dismiss the case for failure to state a claim upon which relief may be granted, concluding that the inmate's "allegations do not rise to the level of a constitutional violation and should be dismissed as frivolous and for failure to state a constitutional claim for relief." The magistrate judge observed that "[w]hile allegations of sexual harassment and rape should not be ignored or disregarded, [the inmate's] claims of such behavior through the use of technology and mind control are beyond comprehension and belief." The district judge adopted the magistrate judge's recommendation over the inmate's objections. The district judge subsequently denied as moot the inmate's motion for a protective order, motion to transfer, motion for service, and motion to consolidate case because the case was

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<sup>1</sup>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.

closed. The court advised the inmate that if the inmate “believes he’s being retaliated against for filing this suit, then he may exhaust his administrative remedies and file a separate lawsuit making that claim.”

The judicial complaint alleges that the state defendants have “continued to use [the aforementioned] technology to perform sexual acts in [the inmate’s] dreams” and that the district judge and magistrate judge have “knowledge of these defendants[] using this technology to . . . rape and perform sexual acts while [the inmate] . . . sleep[s].” According to the judicial complaint, the district judge and magistrate judge have “failed to intervene and failed to take safety precautions for [the inmate’s] safety[,] violating [the inmate’s] constitutional [rights].” The judicial complaint further maintains that the district judge and magistrate judge have used the technology to enter the inmate’s dreams “to rape and commit sexual acts” and laser the inmate’s skin and bodily organs to prevent the inmate from going to higher authorities. Finally, the judicial complaint contends that the district judge and magistrate judge have covered up the defendants’ alleged actions and intimidated “a juror, a witness, or an informant” in violation of the inmate’s constitutional rights.

To the extent the allegations challenge the magistrate judge’s recommendation and the district judge’s dismissal order, they are directly related to the merits of the judges’ decisions and are not cognizable in a judicial complaint. *See* 28 U.S.C. § 352(b)(1)(A)(ii); 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 that the magistrate judge and district judge failed to intervene in the defendants’ use of technology on the inmate, used the technology on the inmate, covered up wrongdoing, and intimidated individuals, such allegations are “frivolous [and] 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)(C)-(D). Accordingly, the allegations must be dismissed.

The complaint is dismissed.

October 28<sup>th</sup>, 2019



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