

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-19-90041
JCP No. 08-19-90042

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se inmate against the United States district judge and magistrate judge who are presiding over the inmate's civil rights action against prison officials, alleging that kitchen staff members poisoned the inmate's food.

The record shows that the magistrate judge recommended that the district judge dismiss the inmate's complaint based on the inmate's failure to comply with the court order to pay the filing fee and the inmate's failure to prosecute the lawsuit. The inmate objected to the magistrate judge's recommendation. The district judge has not yet ruled on the inmate's objections.

The judicial complaint alleges that district judge and magistrate judge "ignored" that the inmate was poisoned and "failed to grant" the inmate's motion to transfer and motion to be placed in protective custody. The judicial complaint further alleges that the district judge and magistrate judge have failed to ensure that the inmate is protected from future food poisoning, in violation of the inmate's constitutional rights.

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.

To the extent the allegations challenge the magistrate judge's recommendation that the district judge dismiss the inmate's complaint or the judges' failure to grant certain motions, the allegations 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 have failed to protect the inmate from food poisoning, such allegation is "frivolous [and] lack[s] 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 ^{28th}, 2019



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