

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-19-90045

In re Complaint of John Doe¹

This is a judicial complaint against a United States district judge who denied the complainant's petition for writ of coram nobis.

The record shows that the complainant filed a second amended petition for writ of error coram nobis on March 17, 2015. On March 27, 2019, the district court denied the coram nobis petition, concluding that the complainant's claims were barred by the abuse-of-the-writ doctrine. The complainant filed a motion for reconsideration, which the district court denied. The Eighth Circuit summarily affirmed the district court's judgment on January 21, 2020.

In the judicial complaint, the complainant alleges that the district judge "delayed the ruling [on the coram nobis petition] for three years." The judicial complaint alleges that the complainant could "not receive a fair judgment from" the district judge because of the district judge's alleged discussion of the case with other individuals. The complainant identifies a certain individual as having told the complainant that, on numerous occasions, the individual had "meetings and din[n]ers" with the district judge at which "they aggressively discussed [the complainant's] [case]." During these meetings, the district judge allegedly made a derogatory statement about the complainant.

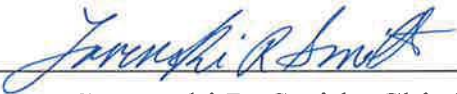
¹Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit, the names of the complainant and the judicial officer complained against are to remain confidential, except in special circumstances not here present.

I requested a response from the district judge. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). In response, the district judge stated, “I unequivocally assure the Judicial Council for the Eighth Circuit that the allegations are false.” Pursuant to my limited inquiry, I then directed the complainant to provide the “full name, address, and telephone number” of the individual identified in the judicial complaint as having allegedly witnessed the district judge make the challenged statements. *See id.* The complainant complied with my request. My chambers then “communicate[d] orally” with the individual. *See id.* The individual denied the allegations set forth in the judicial complaint and affirmatively stated that the individual lacked any knowledge of the events described therein.

Because the individual named in the complainant’s judicial complaint failed to substantiate the complainant’s allegations against the district judge, and based on the district judge’s emphatic denial of those allegations, there is no “reasonably disputed issue.” *See id.* No evidence exists that the district judge engaged in the conduct set forth in the judicial complaint. *See* 28 U.S.C. § 352(b)(1)(A)(iii) (“After expeditiously reviewing a complaint . . . , the chief judge . . . may . . . dismiss the complaint . . . if the chief judge finds the complaint to be . . . lacking sufficient evidence to raise an inference that misconduct has occurred”); J.C.U.S. 11(c)(1)(D). To the extent the judicial complaint alleges unreasonable delay, “[c]ognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” J.C.U.S. Rule 4(b)(2). Here, no evidence exists of an improper motive for delay. Accordingly, the allegations must be dismissed.

The complaint is dismissed.

2/28/ _____, 2020



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