

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-19-90061

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

This is a judicial complaint filed by a former inmate against a United States magistrate judge presiding over the former inmate's civil rights action against six state officials.

The judicial complaint alleges that the magistrate judge "might have a bias towards [the complainant's] case knowing [the complainant] intend[s] to call [a federal official]" in the case. According to the complainant, the magistrate judge has an "appearance of conflict interest and potential bias' due to [the magistrate judge's] affiliation with a criminal matter regarding [the federal official]" some months prior. The complainant also alleges unreasonable delay in the case because five months have now passed since the filing of the complaint, and the magistrate judge has taken no action. Finally, the complainant alleges that the federal official whom the complainant desires to call as a witness has engaged in "serious misconduct" and "perhaps even conspir[ed] to deny [the complainant] access to a Federal courtroom."

To the extent the judicial complaint alleges that the magistrate judge (1) was biased against the complainant because the magistrate judge previously presided over

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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.

a case involving the federal official, and (2) conspired with the federal official<sup>2</sup> to deprive the complainant of due process rights, such allegations “lack[] sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); *accord* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (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, the complainant has put forth no evidence of an improper motive for any delay. Accordingly, the allegations must be dismissed.

The complaint is dismissed.

2/25, 2020



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

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<sup>2</sup>To the extent the judicial complaint alleges misconduct on the part of the federal official, the Rules for Judicial-Conduct and Judicial-Disability Proceedings are inapplicable. *See* J.C.U.S. Rule 1.