

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90017

In re Complaint of John Doe¹

This is a judicial complaint filed by a civil litigant against the United States district judge assigned to the litigant's case.

The record shows that the complainant was represented by counsel in the civil action that the complainant filed. The complainant, who is also an attorney, moved for admission pro hac vice. The magistrate judge denied the motion for admission pro hac vice in a text order, stating that the complainant "is represented by counsel of record in the present case so pro hac vice status for [the complainant] is unnecessary." The complainant's counsel then sent a letter requesting permission to file a motion to reconsider. The magistrate judge denied the request, concluding that "[i]t is of no relevancy that Plaintiff happens to be a licensed attorney admitted to practice in other jurisdictions. As is his right, Plaintiff may proceed pro se. Or Plaintiff may proceed represented by counsel. Plaintiff may not, however, proceed representing himself *and* proceed represented by counsel."

The judicial complaint alleges that the magistrate judge "treated [the complainant] in a demonstrably egregious manner and discriminated against [the complainant] BECAUSE [the complainant] was an attorney from out-of-state." The judicial complaint further alleges that the magistrate judge "violated, oppressed, and


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.

interfered with [the complainant's] State and Federal Constitution[al] rights of 'freedom of association' with [the complainant's] local counsel." Additionally, it maintains that the magistrate violated the complainant's "right 'to travel' from [one state to another] for the purpose of working with [local counsel] as [local counsel's] legal co-counsel in litigating [the complainant's] case." Not only does the judicial complaint allege that the magistrate judge violated the complainant's constitutional rights, but it also alleges that the magistrate judge violated the court's local rules governing pro hac vice motions. The judicial complaint asserts that "NO rational NOR legitimate NOR legal basis [exists] to deny [the complainant's] pro hac vice admission." It characterizes the magistrate judge's decision denying the complainant's motion for admission pro hac vice as "backward reasoning" and critiques the cases that the magistrate judge cited in support of its decision.

To the extent the judicial complaint alleges that the magistrate judge treated the complainant in a demonstrably egregious manner, discriminated against the complainant, and oppressed the complainant, 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. 11(c)(1)(C), (D). To the extent the judicial complaint challenges the district judge's orders denying the complainant admission pro hac vice, it must be dismissed because its allegations are "directly related to the merits of a decision or procedural ruling." *See* 28 U.S.C. § 352(b)(1)(A)(ii); J.C.U.S. Rules 4(b)(1), 11(c)(1)(B).

The complaint is dismissed.

May 27, 2020



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