

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90027

JCP No. 08-20-90028

In re Complaint of John Doe¹

A judicial complaint was filed against the United States magistrate judge and United States district judge who presided over the civil complainant's case. The civil complainant makes a number of allegations against both judges; specifically, that they failed to report attorney misconduct, "rigg[ed] one-way discovery," permitted the defendants to improperly use discovery materials, retaliated against the complainant by sanctioning the complainant, demonstrated personal animus against the complainant, allowed the defendants to repeatedly violate court orders, and struck a valid amended complaint.

The complainant also alleges that the district judge permitted the magistrate judge to "engage in a scheme to censor all docket entries" and covered up e-mails from an assistant united states attorney who admitted to fabricating allegations, permitted attorneys to threaten the complainant, and covered up attorney misconduct.

Further, the complainant alleges that the magistrate judge "[p]resided over a case where [the judge] has a known conflict with Defendants" and was prejudiced and biased against the complainant as a result of this alleged conflict of interest. According to the judicial complaint, the magistrate judge

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.

provided a fellowship through her financial donations to the Program in Human Sexuality at the University of Minnesota. [A] [d]efendant . . . received funding from the same program in 2017 as a researcher and became a staff [member] thereafter until present. [The defendant's] affiliation as a staff [member] was documented by process service

The complainant cites two websites in support of the conflict-of-interest allegation. The complainant alleges that the district judge engaged in judicial misconduct by permitting the magistrate judge to preside over the case with a known conflict.

I requested a response from the magistrate 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 magistrate judge explained that in 2014, a fellowship was established in the magistrate judge's deceased spouse's name. Only one fellow exists at a time and holds the position for two years. The magistrate judge makes financial donations to the University's medical foundation in support of the fellowship. As the magistrate judge explained, the financial contributions "do not go into the general operating budget for [the University's Program in Human Sexuality (PHS)], nor have they ever supported the salaries or research of any other person associated with PHS." The magistrate judge provided a page listing all of the fellows, "none of whom was [a defendant]." The magistrate judge does not know the defendant or "know anything of her history or current role with PHS." The magistrate judge confirmed that the defendant "has never been a . . . [f]ellow and therefore she has never received funding, directly or indirectly, from [the magistrate judge's] contributions in support of the fellowship."


Pursuant to my limited inquiry, I then directed the complainant to provide me with any evidence that the defendant was a fellow who benefitted from the magistrate judge's donation to the fellowship or that the magistrate judge has a personal or professional relationship with the defendant. I advised the complainant that "[f]ailure

to provide the requested information within 30 days from the date of th[e] letter could lead to the dismissal of your complaint.”

The complainant failed to provide the requested information. Because of this failure of proof and based on the magistrate judge’s emphatic denial of those allegations, there is no “reasonably disputed issue” on whether a conflict of interest exists. *See* J.C.U.S. Rule 11(b). No evidence exists that the magistrate judge or 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). The judicial complaint is devoid of any evidence to substantiate the complainant’s claims against the district judge and magistrate judge of bias, retaliation, and conspiracy. Therefore, the allegations must be dismissed as “frivolous [and] “lacking 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 complaint challenges the district judge’s and magistrate judge’s discovery orders or dismissal of the complainant’s complaint, the allegations must be dismissed because they are “directly related to the merits of a decision or procedural ruling.” 28 U.S.C. § 352(b)(1)(A)(ii); *accord* J.C.U.S. Rules 4(b)(1), 11(c)(1)(B). Accordingly, the allegations must be dismissed.

The complaint is dismissed.

January 14, 2021



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