

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90029

In re Complaint of John Doe¹

This is a judicial complaint filed by a criminal defendant against the United States district judge presiding over the defendant's case. In the judicial complaint, the complainant requests a lawyer and alleges that the district judge "refuses to allow [the complainant] to have a legitimate legal defense attorney." The judicial complaint further alleges that the complainant is "still imprisoned because of [the district] judge[']s malpractice." According to the judicial complaint, during a revocation hearing, the district judge "lost his temper and had [the complainant] unceremoniously removed from the [c]ourtroom." The complainant claims that during the revocation hearing, the government "reconfirmed that all the evidence used to convict [the complainant] is false"; nevertheless, the district judge "refuse[d] to recognize such truth and with bias is performing a prosecution." The complainant also asserts that the district judge "refuse[d] to recognize" that the complainant's "forced [p]lea deal is an invalid contract."

And, the complainant alleges, during a subsequent competency hearing, the district judge did not deny "fornication with [the] [p]rosecution," "being in violation of proper jurisprudence," or being in violation of U.S. Federal Law." The complainant further claims that the district judge "refused to answer why [the district judge] illegally denied [the complainant's] legal right to review the evidence before

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.

the [competency] [h]earing or why [the district judge] illegally ignored th[e] [complainant's] third legal request to disengage the services of [defense counsel].”

I have reviewed the record. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) 11(b). The record shows that the complainant has court-appointed counsel.² During the revocation hearing, the complainant made statements and “continue[d] to argue with the Court.” The district judge determined that the complainant was “in need of a psychological evaluation; after warning, [the complainant] [was] removed from the [c]ourtroom and [the] hearing proceed[ed] without [the complainant] (for his best interest and to preserve the right to remain silent).” The district judge stayed the revocation hearing pending a determination of competence. At the subsequent competency hearing, the complainant made “multiple statements and demands to the court.” The district judge again ordered the complainant removed from the courtroom. After the complainant’s removal, the government requested that the district judge “find [the complainant] incompetent to proceed”; the complainant’s counsel did not object. The district judge found the complainant “not competent to stand trial” and remanded to the complainant “to the Attorney General for the restoration process.”

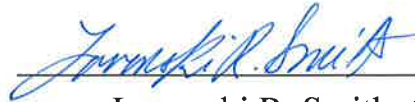
The judicial complaint is devoid of any evidence to substantiate the claim of bias against the defendant or any other alleged misconduct by the district judge, nor does the record support such allegations. Therefore, the allegations must be dismissed as “frivolous [and] “lacking sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); *accord* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States Rule (J.C.U.S.) 11(c)(1)(C), (D). To the extent the judicial complaint challenges the district judge’s rulings regarding court-appointed counsel, the revocation hearing, or the competency

²The district judge denied as moot the complainant’s *ex parte* motion for appointment of new counsel based on a sealed order regarding the complainant’s competency.

hearing, 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).

The complaint is dismissed.

7/14/2020, 2020



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