

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90092

JCP No. 08-20-90093

JCP No. 08-20-90094

In re Complaint of John Doe¹

This is a judicial complaint filed by civil litigant (“complainant”) against two United States district judges and one United States magistrate judge. One of the district judges (“first district judge”) presided over the complainant’s civil lawsuit (“subject lawsuit”) and adopted the magistrate judge’s recommendation to dismiss the complainant’s civil complaint without prejudice. The other district judge (“second district judge”) is related to a retired district judge who presided over another one of the complainant’s civil lawsuits and was subsequently named a defendant in the subject lawsuit.

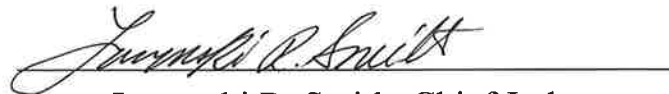
The complainant alleges that the first district judge is a member of “an organization that practices invidious discrimination” because the district judge was appointed by a president who is a Democrat. The complainant further alleges that the second district judge failed to diligently and impartially perform the judge’s duties. As alleged proof, however, the complainant cites the retired federal judge’s actions. Finally, the complainant challenges the magistrate judge’s recommended disposition to dismiss the subject lawsuit.

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 judicial complaint is devoid of any evidence to substantiate the complainant's allegations against the district judges. 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 (J.C.U.S.) Rule 11(c)(1)(C), (D). Moreover, to the extent the judicial complaint challenges the first district judge's and magistrate judge's orders, 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 judicial complaint is dismissed.

August 10, 2021



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