

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-20-90096

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

This is a judicial complaint filed by an inmate (“complainant”) against the United States district judge who originally presided over the complainant’s criminal case.

The complainant alleges that the district judge acted with “[b]ias, prejudice, and [a] partial state of mind” by substantially assisting the government in prosecuting the case against the complainant and violating the complainant’s constitutional rights. First, the complainant challenges the sufficiency of a wiretap order. Second, the complainant maintains that the district judge should have known that the complainant’s defense counsel was ineffective. Third, the complainant asserts that district judge had “ex parte meetings” with prosecutors and federal law enforcement officers concerning shackling defendants. Fourth, the complainant alleges that the district judge knew or should have known that the indictment was defective. Fifth, the complainant argues that the district judge gave erroneous or misleading jury instructions. Sixth, the complainant maintains that the district judge constructively amended the indictment. Seventh, the complainant alleges that the district judge knew that one of the attorneys labored from a conflict of interest. Finally, the complainant maintains that the district judge demonstrated bias against the complainant by denying two compassionate-release motions.

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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.

I have reviewed the record. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). Contrary to the complainant’s representation that all of the allegations are “supported by documentation and trial transcripts,” nothing in the record supports the aforementioned allegations, as the complainant represented. Indeed, the record shows that the complainant incorrectly alleged that the district judge denied the two compassionate-release motions.<sup>2</sup>

Having reviewed the judicial complaint and record, I conclude that the judicial complaint is devoid of any evidence to substantiate the complainant’s claims that the district judge was biased against the complainant, nor does the record substantiate any of the remaining 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* J.C.U.S. Rule 11(c)(1)(C), (D). Moreover, to the extent the judicial complaint challenges the district judges’ 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).

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<sup>2</sup>The district judge recused from the case once the complainant filed this judicial complaint. The compassionate-release motions were pending at the time district judge entered the recusal order.

The judicial complaint is dismissed.

8/10, 2021

A handwritten signature in black ink, appearing to read "Lavenski R. Smith", is written over a horizontal line.

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