

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-21-90039

In re Complaint of John Doe¹

This is a judicial complaint filed by an inmate (“complainant”) against the United States magistrate judge assigned to the complainant’s civil rights case.

The complainant alleges that the magistrate judge allowed the defendants’ attorney to “make [r]uling[s] on [the complainant’s] motion of discovery [r]equest [f]or [a]dmissions multiple times” and continuously denied the complainant’s “motion [f]or [m]ental [h]ealth [e]xamination and [m]edical [h]ealth [r]ecords [and] [m]otion [for] [a]ppointment of [c]ounsel.” Additionally, the complainant argues that because the magistrate judge did not attach orders to the docket entries explaining the magistrate judge’s reasoning for the denials of the complainant’s motions, the complainant had no way to know “what [l]aw or [r]ules [the magistrate judge] used” when appealing those denials to the district court.

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). The record shows that the complainant has filed multiple motions for discovery. Each time, the magistrate judge denied the discovery motion, explaining in text entries that “[d]iscovery requests and responses are not to be filed with the Court but, instead, should be sent directly to opposing counsel, along with a certificate of service.”

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 complainant also moved several times for mental health examinations. The magistrate judge denied these motions, explaining in one text entry, “Plaintiff’s cause of action is based on allegations of deliberate indifference to his serious medical needs related to treatment for diabetes. Plaintiff’s request falls outside the bounds or relevance for this lawsuit.” The magistrate judge also denied the complainant’s multiple motions to subpoena certain medical records. The magistrate judge explained in text entries that “[t]he Court retains the discretion to refuse to issue Rule 45 subpoenas to nonparties if [Plaintiff] does not provide sufficient information. . . . Here, Plaintiff’s motion fails to sufficiently explain how any of the information [sought] is relevant so [the] request is denied.” (Second alteration in original.)

The magistrate judge additionally denied the complainant’s multiple motions for appointment of counsel. The magistrate judge stated in a text entry that

[a] civil litigant does not have a constitutional or statutory right to appointed counsel in a civil action but the Court may appoint counsel at its discretion. 28 U.S.C. § 1915(e)(1). The Court has considered Plaintiff’s need for an attorney, the likelihood that Plaintiff will benefit from assistance of counsel, the factual complexity of the case, the Plaintiff’s ability to investigate and present the case, and the complexity of the legal issues. In considering these factors, the Court finds that Plaintiff’s claims do not appear legally or factually complex, and it appears Plaintiff is capable of prosecuting these claims without appointed counsel. After careful consideration of Plaintiff’s motion for mental health examination and motion for order, I find they should be denied at this time.

Finally, the complainant filed appeals of the magistrate judge’s denials of the motions for appointment of counsel, mental health examination, medical records, discovery, and other orders to the district court. The district court denied the complainant’s appeals, concluding that the magistrate judge did not “clearly err or misapply the law.”

Having reviewed the record, I conclude that it does not support the complainant's allegation that the magistrate judge allowed the defendants' attorney to rule on certain motions. That allegation is 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). The remaining allegations challenge the district judge's docket management and orders; accordingly, they must be dismissed as "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.

10/22/2021, 2021



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