

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-21-90050

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

This is a judicial complaint filed by a criminal defendant (“complainant”) against the United States district judge assigned to the complainant’s case.

The judicial complaint alleges that, following the Eighth Circuit’s remand to the district judge for the complainant’s resentencing, the district judge has taken “no action.” The complainant acknowledges that the district judge directed the parties to submit briefs regarding resentencing by certain dates. Nonetheless, the complainant contends that “it’s obvious that it’s a strategic way of unnecessarily delaying the defendant’s freedom, being that [the district judge] has taken no action on the record and the [complainant] [is] being . . . unlawfully detained.”

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 government did respond to the district judge’s briefing request. Additionally, the complainant has filed several pro se motions concerning sentencing.

“[C]ognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in

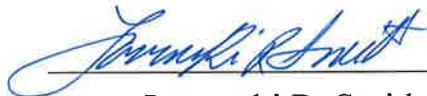
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<sup>1</sup>Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit, the names of the complainant and the judicial officer complained against are to remain confidential, except in special circumstances not here present.

delaying a particular decision or habitual delay in a significant number of unrelated cases.” J.C.U.S. Rule 4(b)(2). To the extent the judicial complaint alleges an improper motive by the district judge, the allegation is purely speculative and 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).

Accordingly, the judicial complaint is dismissed. *See* J.C.U.S. Rule 11(c)(1)(A).

October 22, 2021



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