

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-21-90052

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 “has shown a lack of judicial discipline and judicial disability to interpret a clear and plainly stated claim as evidenced by plain errors made by the magistrate [judge] and false findings” in two orders and a report and recommendation (R&R).

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, in the first challenged order, the magistrate judge directed that the complainant’s civil rights complaint be provisionally filed while the complainant’s *in forma pauperis* status was determined; the magistrate judge also severed from the case the complainant’s claims against certain defendants whom the district court lacked personal jurisdiction over. The order stated that the complainant was an inmate in a certain county. After the complainant filed an objection to the order, the district court determined that although the magistrate judge’s “order . . . mistakenly stated at one point” that the complainant was in a certain county, “[t]his clerical error ha[d] no effect on the substance of that order or any Court

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.

proceedings, and [was] immaterial.” The district court found “no basis for [the] objection.”

In the second challenged order, the magistrate judge determined that the complainant failed to “clearly state[] how each named [d]efendant violated [the complainant’s] federal constitutional rights” and observed that “some of [the] claims may be frivolous.” Additionally, the magistrate judge noted that the “complaint is not on a form approved for use in [the] [d]istrict” and directed the complainant “to submit an [a]mended [c]omplaint within 21 days of the date of [the] [o]rder.” The complainant objected to the order. The district court concluded that the complainant’s “initial complaint was filed on an approved form, and to this extent the [m]agistrate [j]udge’s finding of a deficiency is erroneous.” Nonetheless, the district court concluded that the complainant’s “complaint otherwise lacks sufficient factual allegations to give fair notice of [the] claims, and the [m]agistrate [j]udge’s order stands.”

Finally, in the R&R, the magistrate judge recommended that the district court dismiss the case without prejudice. The complainant objected to the R&R. The district court rejected the complainant’s objections and adopted the R&R in full.

Having reviewed the record, I conclude that the judicial complaint’s allegations challenge the magistrate judge’s 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.

October 22, 2021



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