

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-22-90017

In re Complaint of John Doe¹

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 the district judge (1) “harbors an ulterior motive when making decisions pertaining to the complainant, in which are therefore in bad faith”; (2) deems the complainant guilty and is adamant that [the complainant] . . . be held accountable for all such alleged misconduct”; (3) has “disregard[ed] . . . the United States Constitution and Supreme Court precedent, in [an] effort to achieve [the] ulterior motive”; (4) expressed “hostility in response to the complainant’s choice to proceed pro se and [the complainant’s] accompanying and persistent challenges to the indictment”; (5) “encourages and enables” the government to “present elements via trial jury instruction that are not present within the relevant counts of the indictment”; (6) honored, in “bad faith,” the government’s reservation of the right to argue that the complainant consciously committed acts associated with a certain controlled substance; (7) intentionally denied the complainant’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 in the absence of a magistrate judge’s report and recommendation “to avoid a recommendation that conflicts with [the judge’s] agenda”; (8) “blam[e] the complainant for circumstances out of [the complainant’s] executive control” in denying the complainant’s continuance request;

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.

(9) has delayed in ruling on certain pretrial motions to “strategically await[] until trial is imminent to render a decision to discourage and prevent any further challenge by the complainant.”

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). To the extent that the judicial complaint’s allegations challenge the district judge’s decisions and orders, 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). To the extent the judicial complaint alleges delay in rendering an order on certain pretrial motions, “[c]ognizable misconduct . . . does not include . . . an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” J.C.U.S. Rule 3(h)(3)(B).² To the extent the judicial complaint alleges that the district judge is biased, hostile, has acted in bad faith, or engaged in other improper conduct, the allegations are “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)(D).

Accordingly, the judicial complaint is dismissed.

5/25/22, 2022



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

²The record reflects that the district judge has now ruled on the pretrial motions.