

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-22-90035

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

This is a judicial complaint filed by a civil litigant (“complainant”) against the United States district judge assigned to the complainant’s civil-rights action.

The judicial complaint cites as misconduct the district judge “[n]ot allowing this case to be dismiss[ed] on the behalf of the plaintiff” and further alleges that the district judge “allow[ed] the [defendant] to make false statements concerning a claim.”

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 filed the original complaint in December 2019. Then, on May 15, 2020, the complainant moved “for a response while waiting for a jury trial.” The complainant inquired “how much longer by law would [the complainant] need to wait to be heard.” That same day, the district judge ordered the complainant to file an amended complaint to cure certain deficiencies. In July 2020, the district judge granted the complainant’s motion to extend time to file the amended complaint. In August 2020, the complainant filed the amended complaint. In May 2021, the complainant filed a notice that the complainant was “still waiting [for] a jury trial of this case.” In that notice, the complainant also asked that the district judge

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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.

order a polygraph examination of the defendant. In September, October, and November 2021, summons were issued. On November 2, 2021, the complainant filed a notice asking that the defendant “be ordered to be serve[d].” On April 15, 2022, the complainant filed a notice that the complainant was filing a judicial complaint. Currently, the defendant has filed no responsive documents, nor has the district judge entered any additional orders since July 2020.

Having reviewed the record, I find the judicial complaint’s 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). To the extent the complainant is alleging delay, “[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). Because the judicial complaint lacks sufficient evidence of improper motive or habitual delay, the delay allegations are dismissed as merits-related. *See* J.C.U.S. Rule 11(c)(1)(B).

Accordingly, the judicial complaint is dismissed.

July 8, 2022

  
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Lavenski R. Smith, Chief Judge

United States Court of Appeals

for the Eighth Circuit