

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-22-90038

In re Complaint of John Doe¹

This is a judicial complaint filed by an individual (“complainant”)² against a United States district judge assigned to an inmate’s civil-rights action.

First, the judicial complaint alleges that the district judge “committed . . . intentional civil wrongdoing” by entering an order denying the inmate’s motions to dismiss summary judgment and directing the inmate to file a response to the defendants’ motion for summary judgment because the case was assigned to a United States magistrate judge, not the district judge. Second, the judicial complaint maintains that the district judge “committed . . . intentional civil wrongdoing” by entering an order denying the inmate’s motion for entry of default, motion for default judgment, and amended motion for entry of default; granting the defendants’ motion for summary judgment; and dismissing the case the case was assigned to the magistrate judge, not the district judge. Third, the judicial complaint asserts that the district judge “knowing[ly] and intentionally commit[ted] a white-collar criminal act of ‘Mail Fraud’ . . . when [the district judge] willfully stole, took, or abstracted by fraud and deception obtained [the inmate’s] appeal for [the civil-rights action] from the Clerk of the Court[’s] mailbox.” Finally, the judicial complaint contends that the district judge “committed . . . intentional civil wrongdoing” by ordering the inmate

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.

²The complainant is neither a party nor lawyer in the civil-rights action.

to pay an initial partial filing fee and ordering the inmate’s institution to collect additional monthly payments to forward to the 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). On July 28, 2021, an order was entered “reassign[ing] [the case] to [the] [m]agistrate judge for judicial supervision” but making clear that the case “remains assigned to [the district judge] for disposition” Thereafter, the district judge entered the challenged orders.

To the extent that the judicial complaint’s allegations challenge the district judge’s 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); J.C.U.S. Rule 3(h)(3)(A) (“Cognizable misconduct . . . does not include . . . an allegation that is directly related to the merits of a decision or procedural ruling. An allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse, without more, is merits-related.”). To the extent the judicial complaint alleges that the district judge acted illegally 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.

July 19, 2022



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