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- (B). Judicial complaint against Missouri Western Dist Court Chief Judge Beth Phillips- JCP No.08-23-90096 -filed on Sept 7-2023
- (C). Chief Judge Smith's ruling on Judicial complaints 90024-35,
- (D). Judicial Council of the 8th Circuit Appealallant court order substaining Chief Judge judicial complaint order unlawfully.
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- (F). Judge Steven Bough's response for petition for writ of mandamus in 21-1302.

United States Court of Appeals

For The Eighth Circuit

Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24329

St. Louis, Missouri 63102

Michael E. Gans
Clerk of Court

VOICE (314) 244-2400
FAX (314) 244-2780
www.ca8.uscourts.gov

July 12, 2023

Mr. Bryan Lee Gregory #32331-045
FEDERAL CORRECTIONAL INSTITUTION
P.O. Box 7007
Marianna, FL 32447-7007

Re: JCP No. 08-23-90024 Complaint of Bryan Gregory against Judge Bough
JCP No. 08-23-90025 Complaint of Bryan Gregory against Judge Colloton
JCP No. 08-23-90026 Complaint of Bryan Gregory against Judge Stras
JCP No. 08-23-90027 Complaint of Bryan Gregory against Judge Kobes
JCP No. 08-23-90028 Complaint of Bryan Gregory against Judge Bough
JCP No. 08-23-90029 Complaint of Bryan Gregory against Judge Colloton
JCP No. 08-23-90030 Complaint of Bryan Gregory against Judge Gruender
JCP No. 08-23-90031 Complaint of Bryan Gregory against Judge Stras
JCP No. 08-23-90032 Complaint of Bryan Gregory against Judge Colloton
JCP No. 08-23-90033 Complaint of Bryan Gregory against Judge Gruender
JCP No. 08-23-90034 Complaint of Bryan Gregory against Judge Stras
JCP No. 08-23-90035 Complaint of Bryan Gregory against Judge Bough

Dear Mr. Gregory:

Enclosed is a copy of an Order filed today in the above-referenced judicial complaints at the direction of Chief Judge Lavenski R. Smith.

Pursuant to the Rules for Judicial Conduct and Judicial Disability Proceedings, I am notifying you of your right to petition the Judicial Council for review of the Chief Judge's decision. If you decide to file a petition for review, it must be received in this office of the Clerk of the Court of Appeals within forty-two (42) days of the date of this letter and must be filed in compliance with Rule 18 of the Judicial Conduct and Judicial Disability Proceedings and Rule 6 of the Rules Governing Complaints of Judicial Misconduct and Disability. I urge you to read carefully your copy of these rules - particularly Rule 18 - before proceeding further and to note the 42-day time limit if you seek further review.

Sincerely,

Michael E. Gans
Clerk of Court

/rmk

Enclosure

United States Court of Appeals
For The Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329
St. Louis, Missouri 63102

Michael E. Gans
Clerk of Court

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September 07, 2023

Bryan Lee Gregory
FEDERAL CORRECTIONAL INSTITUTION
32331-045
P.O. Box 7007
Marianna, FL 32447-7007

Re: JCP No. 08-23-90096 Complaint of Bryan Gregory

Dear Bryan Gregory:

I wish to acknowledge receipt of the judicial complaint which you have filed against Hon. Beth Phillips. A copy of the complaint has been sent to U.S. Circuit Judge James B. Loken of the Eighth Circuit Court of Appeals for his review and appropriate action. A copy has also been sent to Hon. David Gregory Kays, the most senior judge of the Western District of Missouri. You will be promptly notified of any action taken.

Sincerely,

Michael E. Gans
Clerk of Court

/rmk

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-23-90024
JCP No. 08-23-90025
JCP No. 08-23-90026
JCP No. 08-23-90027
JCP No. 08-23-90028
JCP No. 08-23-90029
JCP No. 08-23-90030
JCP No. 08-23-90031
JCP No. 08-23-90032
JCP No. 08-23-90033
JCP No. 08-23-90034
JCP No. 08-23-90035

In re Complaint of John Doe¹

These are judicial complaints filed by an inmate ("complainant") against four United States circuit judges and a United States district judge.

The judicial complaints allege that (1) the district judge and circuit judges conspired with the prosecutor, other judges, and court employees² to violate the complainant's due process and equal protection rights and deny the complainant

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 prosecutor and court employees are not "covered judges" subject to the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-365. *See* J.C.U.S. Rule 1(b); *see also* J.C.U.S. Rule 8(c) ("Complaints against noncovered persons are not to be accepted for processing under these Rules but may, of course, be accepted under other circuit rules or procedures for grievances.").

access to the courts; (2) the district judge ignored the complainant's right to effective assistance of counsel; (3) the district judge had an ex parte meeting with the prosecutor prior to the complainant's sentencing hearing; (4) the district judge denied the complainant a copy of the record in violation of the complainant's Sixth Amendment rights; (5) the district judge failed to consider a reply brief filed by the complainant; (6) the circuit judges violated their own rules by not appointing counsel to the complainant; and (7) the circuit judges violated the complainant's due process rights by not ruling on issues that the complainant raised on appeal.

I have reviewed the record in the complainant's criminal case and in the motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. *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 pleaded guilty to the charged offense. Prior to sentencing, the complainant filed a pro se motion to withdraw the guilty plea. The district judge denied the motion for failure to state a proper legal basis and because the complainant was represented by counsel. The complainant then expressed a desire to terminate counsel and proceed pro se. The district judge advised the complainant that although the district judge could not prevent the complainant from terminating defense counsel, the district judge was not going to hear argument on the complainant's motions, as they were already denied. The complainant responded, "I don't get no due process of law?" The district judge replied, "You're getting all the due process you're entitled to and apparently all that you can handle. So here's the deal: If you want to fire [counsel], I'll let you fire [counsel]. Your motions have already been denied. I'm going to work through the due process as I believe the United States Constitution guarantees you, and if I am wrong, the 8th Circuit will gladly tell me." The complainant ultimately decided against terminating counsel. Following the sentencing hearing, the complainant appealed, arguing, among other things, that defense counsel was ineffective. The Eighth Circuit declined to consider this argument on direct appeal.

Following the direct appeal, the complainant filed a pro se motion requesting that the district judge send the complainant copies of “a full docket sheet” in the criminal case and “a copy of everything that was filed by [the complainant], attorneys or the United States in the case.” The district judge granted the complainant’s request to receive a copy of the docket sheet but denied without prejudice the complainant’s request for “a copy of everything else that was filed.” In response to the complainant’s statement that the requested discovery was needed to litigate a pending § 2255 motion, the district judge replied, “All such motions or requests must be filed in the pending Section 2255 case.”

The complainant did file a pro se § 2255 motion, claiming 43 grounds for relief. The complainant filed motions for discovery, including the production of various documents and records. The district judge concluded that the complainant failed to show good cause for the motions and denied them without prejudice. The district judge also denied the complainant’s motion to disqualify the district judge because the complainant failed to state a “legitimate basis for disqualification.” The complainant subsequently moved for leave to supplement the § 2255 motion and for production of various documents. In a text order, the district judge denied the motions. The complainant then filed renewed motions for leave to supplement and for disqualification of the district judge. The district judge denied the motions. The district court also denied the complainant’s request that the district judge ensure that the complainant “is provided with paper, pens, and access to a ‘legal computer.’” The district judge stated, “A review of the record shows that [the complainant] has enjoyed exceptional access to the Court, therefore, this motion is denied.”

The complainant then filed with the Eighth Circuit a pleading entitled, “Supplemental Brief of Writ of Mandamus.” The pleading sought to “supplement[] [the complainant’s] original petition for [the district judge] to recuse.” Three of the circuit judges denied the complainant’s petition for writ of mandamus.

Thereafter, the district judge denied the complainant's § 2255 motion, rejecting the complainant's ineffective-assistance-of-counsel claims and prosecutorial-misconduct claims on the merits and summarily denying relief on the remaining claims as waived under the plea agreement. The complainant sought a certificate of appealability (COA) following the district judge's denial of the § 2255 motion and also sought authorization to file a successive § 2255 motion.

Three of the circuit judges denied the complainant's application for a COA, noting that they had "carefully reviewed the original file of the district court." In the same judgment, the circuit judges also denied the complainant's motions for a briefing schedule and for remand. In a separate judgement, the circuit judges denied the complainant's motion for authorization to file a successive habeas application in the district court.

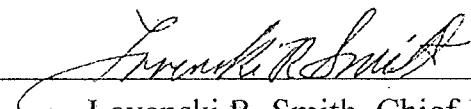
Recently, the complainant requested a copy of the docket reports in the § 2255 proceeding and in the criminal case. The district judge ordered the Clerk of Court to send the complainant a copy of the docket reports. The district judge also ordered the Clerk of Court to send the complainant certain requested documents upon receipt of the copying fee. And the district judge construed the complainant's "Petition to Vacate Sentence and Conviction Pursuant to Federal Court Rule-60(B)" as "a second § 2255 motion." The district judge "denie[d] the motion without prejudice to [the complainant] obtaining authorization from the Court of Appeals for [the district judge] to consider [the] claims." In the same order, the district judge denied the complainant's "related requests" and the complainant's request that the district judge recuse. The district judge determined that the complainant failed to state a "legitimate basis for disqualification."

Having reviewed the record, to the extent the judicial complaints' allegations challenge the orders of the district judge and the circuit judges, 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 complaints allege that the judges conspired against the complainant, violated the complainant's rights, engaged in improper communications, or engaged in other judicial misconduct, such allegations are "frivolous, 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).

The judicial complaints are dismissed.

July 7, 2023



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

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP Nos. 08-23-90024

08-23-90025
08-23-90026
08-23-90027
08-23-90028
08-23-90029
08-23-90030
08-23-90031
08-23-90032
08-23-90033
08-23-90034
08-23-90035

COMPLAINTS OF John Doe¹

ORDER

A petition for review by the Judicial Council has been filed in these matters. Pursuant to Rule 8(b) of the Rules Governing Complaints of Judicial Misconduct and Disability, the petition has been referred to the Council's Review Panel. The Review Panel consists of United States Circuit Judge Jane Kelly, United States District Judge Roberto A. Lange, United States District Judge Beth Phillips², United States District Judge D. P. Marshall, Jr., and United States District Judge Stephanie M. Rose.

The Review Panel votes to deny the petition for review for the reasons stated in Chief Judge Lavenski R. Smith's order of dismissal.

September 12, 2023

Order Entered at the Direction of the Eighth Circuit Judicial Council.
Clerk, United States Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

¹ Pursuant to Rule 4(f)(1) of Rules for Processing Complaints Against Judges and Magistrates of the Eighth Circuit, the names of the complainant and the judicial officers whose conduct was complained about are to remain confidential, except in special circumstances not present here.

² The Honorable Beth Phillips took no part in the consideration or decision of this matter. ³



United States Court of Appeals for the Eighth Circuit

Richard Sheppard Arnold United States Courthouse
600 West Capitol Avenue, Suite A502
Little Rock, Arkansas 72201-3325
501-324-7310 501-324-7305 (fax)

Lavenski R. Smith
Chief Judge

October 12, 2023

Mr. Bryan Gregory
F.C.I. Marianna
P.O. Box 7007
Marianna, FL 32447

Dear Mr. Gregory:

I am in receipt of your complaint filed against Michael Gans, Clerk of Court for the United States Court of Appeals for the Eighth Circuit. In your complaint, you allege that Mr. Gans mishandled your appeals in the following appeals: 19-1583, 21-1302, 21-1688, and 21-2306. You also allege that Mr. Gans is involved in a larger conspiracy against you on the part of the United States Court of Appeals for the Eighth Circuit.

Having reviewed the appellate docket, I conclude that your complaints against Mr. Gans are unsubstantiated.

Sincerely,

Lavenski R. Smith
Chief Judge

LRS/tb

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI

STEPHEN R. BOUGH, DISTRICT JUDGE

816-512-5370

(FAX) 816-512-5863

February 10, 2021

Mr. Michael E. Gans
Clerk of Court
United States Court of Appeals for the Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329
St. Louis, MO 63102

RE: 21-1302 - *In re Bryan Gregory*

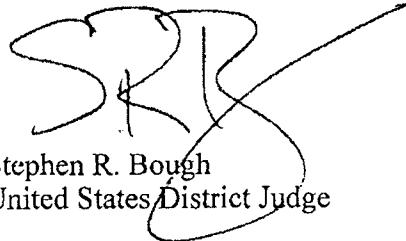
Dear Mr. Gans:

This is in response to your letter to me dated yesterday.

To the extent that Mr. Gregory asks the Court of Appeals to direct you to file his correspondence as a petition for mandamus relief against me, it appears that this has been done. To the extent that Mr. Gregory asks the Court of Appeals to remove me from further proceedings in his pending case, *Gregory v. United States*, 20-3294-CV-S-SRB (involving a motion to vacate sentence pursuant to 28 U.S.C. § 2255), I note Mr. Gregory has filed three requests or motions for my disqualification (Docs. 14, 28, and 35), which I have denied (Docs. 29 and 39) because I found no legitimate basis for disqualification under 28 U.S.C. § 455 (criteria for disqualification). On January 12, 2021 (Doc. 39), this Court also granted Mr. Gregory's request for a four-month extension of time to file his reply in his § 2255 case.

Please let me know if I may be of further assistance.

Sincerely yours,


Stephen R. Bough
United States District Judge

cc: Mr. Bryan Gregory