

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-18-90007

JCP No. 08-18-90008

JCP No. 08-17-90009

In re Complaint of John Doe¹

This is a judicial complaint filed by pro se litigants against the three United States circuit judges who affirmed on appeal the dismissal of the litigants' civil suit challenging their liability for taxes and penalties under the Internal Revenue Code.

The judicial complaint alleges that the three circuit judges “have participated in conduct prejudicial to the effective and expeditious administration of the business of the courts by refusing to exercise their jurisdiction in the guise of a *Per Curiam Affirmance*; i.e. *ipso facto* tacit consent for the use of a fraudulent *Standard of Review*.” According to the judicial complaint, the judges' per curiam opinion violates Federal Rules of Civil Procedure 1 and 41(b) by affirming the district court's dismissal of their civil suit with prejudice under Federal Rule of Civil Procedure 12(b)(1). The judicial complaint maintains that the three circuit judges “disregard[ed] numerous plain errors of the lower court in tacit abandonment of their jurisdictional duty under the guise of a *Per Curiam Affirmance* in order to uphold a pre-determined outcome.”

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.

The judicial complaint’s allegations are “directly related to the merits of a decision or procedural ruling” and therefore must be dismissed. 28 U.S.C. § 352(b)(1)(A)(ii); *accord* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(B). The complaint only calls into question the correctness of the circuit judges’ ruling, and, as such, is not cognizable misconduct. *See* J.C.U.S. Rule 3(h)(3)(A) (“An allegation that calls into question the correctness of a judge’s ruling . . . without more, is merits-related.”).

The complaint is dismissed.

May 29, 2018



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