

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-17-90021

JCP No. 08-17-90022

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

### ORDER

This is a judicial complaint and a supplemental complaint filed by a pro se civil litigant on March 30, 2017, and April 18, 2017, against a United States district judge and a United States magistrate judge who dismissed the complainant's civil lawsuits.

The complainant's original judicial complaints alleges that both judges delayed their rulings on many of his motions, "upwards one year." The complainant further alleges that when he brought these "overt acts of misconduct" to their attention, the judges retaliated against him and dismissed his lawsuit.

These allegations are directly related to the merits of the respective judges' decisions or procedural rulings and are not cognizable in a judicial complaint. *See* 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.) Rules 3(h)(3)(A). Rule 11(c)(1)(B). The complaints only call into question the correctness of the district and magistrate judges' rulings regarding the complainant's multiple complaints, and, as such, are not cognizable misconduct. *See* J.C.U.S. Rule 3(h)(3)(A). The complaints do allege bias and that the judges are "vindictive and prejudicial towards the complainant," but "[i]f the decision or ruling is alleged to be the result of an improper motive... the complaint is not cognizable to the extent that it attacks the merits." *Id.* In addition, the complaints are "frivolous [and] lacking

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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.

sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(ii); see also J.C.U.S. Rule 11(c)(1)(C), (D).

Accordingly, the complaints are dismissed.

July 25, 2017



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