

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-17-90069

In re Complaint of John Doe¹

This is a judicial complaint filed by an incarcerated pro se litigant against the United States district judge who is presiding over his § 1983 action. *See* 42 U.S.C. § 1983.

The judicial complaint alleges that the district judge denies “every si[n]gle Motion” the complainant files. Because of all these denials, the complainant had filed a motion for recusal, arguing that the district judge was biased against him. But the district judge denied that motion, concluding that the complainant failed to (1) explain why the judge’s impartiality could be reasonably questioned, or (2) present any evidence of bias or prejudice. According to the district judge, the complainant’s motions were denied because he sought relief to which he was not entitled, failed to follow the rules of procedure, or submitted unintelligible motions. Despite the district judge’s denial of the motion for recusal, the complainant speculates in his judicial complaint that the district judge “is trying to find a reason to . . . [d]ismiss this case.” Additionally, the complainant alleges that the district judge is now “[d]ragging this case out” by entertaining motions filed by the defendants and not proceeding to trial.

These allegations are directly related to the merits of the judge’s decisions or procedural rulings and are not cognizable in a judicial complaint. *See* 28 U.S.C.

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.

§ 352(b)(1)(A)(ii); Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rules 3(h)(3)(A), 11(c)(1)(B); *see also* J.C.U.S. Rule 3(h)(3)(B) (stating that cognizable misconduct “does not include . . . an allegation about delay in rendering a decision or ruling”).

The complaint is dismissed.

September 14, 2017



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