

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-17-90096

In re Complaint of John Doe¹

This is a judicial complaint filed by a lawyer against a United States district judge who denied the lawyer's motion to recuse.

The judicial complaint alleges that the district judge "is abusing [the district judge's] power to retaliate against" the complainant by "destroy[ing] any case where [the complainant is] counsel" because of the district judge's personal disdain for the complainant. The judicial complaint alleges that the lawyer and district judge attended the same law school and have a "mutual disgust for each other." For this reason, the lawyer filed a motion to recuse in a case before the district judge. The district judge denied the motion. The district judge did "not recall attending law school with any person" with the lawyer's name. Additionally, the district judge reviewed the class roster and did not locate any person with that name. The district judge also noted that the lawyer did not show "that he and the undersigned attended the same law school at the same time." The complainant acknowledges that the recusal order is "'technically' correct" because he changed his last name; he also acknowledges that the district judge graduated a year prior to the lawyer. Nonetheless, the complainant accuses the district judge of "craftily stat[ing]" that the district judge does not recall attending law school with him because of his "unique" first name.

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.

Allegations such as these “that call[] into question the correctness of a judge’s ruling, including a failure to recuse, without more, [are] merits-related.” Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 3(h)(3)(A). Accordingly, these allegations must be dismissed.

The judicial complaint further alleges that the complainant has a new case before the district judge that he argues was improperly removed to federal court. He asserts that the district judge has a reputation “for refusing to remand and dismissing all claims with prejudice; however, in my instance, it would be based on personal animosity for me.” The complainant seeks “immediate relief to have [the district judge] removed from this case.”

These bare, speculative allegations against the district judge must be dismissed because they “lack[] 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).

The complaint is dismissed.

October 27th 2017



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