

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-17-90100

In re Complaint of John Doe¹

This is a judicial complaint filed by an incarcerated pro se civil litigant against the United States district judge who presided over the litigant's civil suit.

The judicial complaint alleges that the district judge granted the defendants' motion to dismiss the complainant's civil suit without acknowledging the complainant's response to the defendants' motion to dismiss. The complainant alleges that the district judge engaged in judicial misconduct by allowing "someone" to submit "a false document that [the district judge] titled 'motion for reconsideration,'" which was, in fact, the complainant's response to the defendants' motion to dismiss.

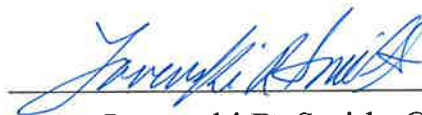
The record shows that after the defendants submitted their motion to dismiss, the complainant submitted "Plaintiff[']s] Response To Defendants['] Motion To Dismiss." That same day, the complainant also submitted a "Motion To Reconsider, Motion of Interrogatories (Evidence)." Three days later, the district court denied the complainant's motion for reconsideration and granted the defendants' motion to dismiss. Several days thereafter, the complainant filed a "Motion of Abuse and Failure to Acknowledge," alleging that the district judge ignored his responsive motion to the defendants' dismissal motion. The district judge responded, "Contrary to Plaintiff's assertions, Plaintiff's response to Defendants' motion to dismiss . . . was reviewed and discussed in this Court's [prior] Order"

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 allegations set forth in the judicial complaint are directly related to the merits of the district judge's rulings on the motion to dismiss and motion for reconsideration. 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 district judge's 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.

December 26th, 2017



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