

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-17-90101

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

This is a judicial complaint filed by an inmate against the district judge who presided over his habeas corpus action pursuant to 28 U.S.C. § 2255.

The judicial complaint alleges that the district judge treated the complainant “in a demonstrably egregious and hostile manner” by issuing an order prohibiting the complainant “from filing any further pleadings in [his] case unless related to an appeal.” The order directed the clerk “to return to [the complainant], un-filed, any further documents [the complainant] may attempt to submit for filing in this case in violation of this Order.” According to the district judge, the order was necessary because the district judge and government had “expended a considerable amount of time and resources responding to [the complainant’s] incessant motions.” Following entry of the order, the judicial complaint alleges that the complainant attempted to file a motion that was subsequently returned to him and marked “Not Filed” by the clerk’s office. The complainant argues that the district judge’s “prohibitive order does *not* override firmly established U.S. Supreme Court precedent” that the district judge must accept and adjudicate his motion. He asserts that the district judge’s “failure and/or outright refusal to accept [his] [m]otion constitutes conduct prejudicial to the effective and expeditious administration of the business of the courts.”

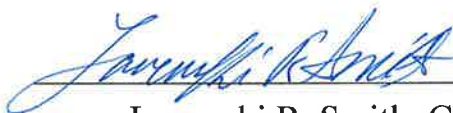
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<sup>1</sup>Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit, the names of the complainant and the judicial officer complained against are to remain confidential, except in special circumstances not here present.

These allegations are directly related to the merits of the district judge's order prohibiting the complainant from filing any further pleadings in the case unless related to an appeal. *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.) 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 24<sup>th</sup>, 2017



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