

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-18-90005

In re Complaint of John Doe¹

This is a judicial complaint filed by pro se litigants against the district judge who dismissed their civil lawsuit. While the complainants “cannot say, definitively and specifically, what issues [the district judge] has,” they allege that the district judge “seems to have a bias against ‘pro se’ litigants, or possibly people of color, or persons with disabilities . . . , or some other isolated group, that seriously affects [the district judge’s] ability to do [the district judge’s] job in the manner a federal judge should.” The complainants base their bias accusation on the district judge’s dismissal of their original case, followed by the district judge’s dismissal of their case after remand. In addition, they assert that instead of issuing a final scheduling order stating that “the parties may request a settlement conference” prior to trial, the district judge, following remand, should have issued a scheduling order mandating a settlement conference. Finally, they note that, in accordance with the scheduling order, they submitted their pretrial disclosures to the district judge; that same day, the district judge dismissed the case. The complainants allege that “in hindsight, its obvious that [the district judge] has had deeply negative feelings about this case since the beginning” and therefore should have recused.

The complainants’ allegations of bias against the district judge “lack[] sufficient evidence to raise an inference that misconduct has occurred.” 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)(iii); *accord* J.C.U.S. Rule 11(c)(1)(D). In addition, 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. § 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).

The complaint is dismissed.

May 11, 2018



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