

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-18-90006

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

This is a judicial complaint filed by a complainant against the district judge who dismissed the civil lawsuit brought by the complainant and his co-plaintiff.

The judicial complaint alleges that the district judge “violated 18 U.S.C. § 242 by conspiring with [the defendant or defendant’s counsel] to rig [the plaintiffs’] case and deny [the plaintiffs] due process of law.” Specifically, the complainant alleges that in dismissing the plaintiffs’ complaint, the district judge “referenced [a] state case that had *never* been mentioned in the federal case.” The complainant contends that “[t]he only way [the district judge] could have possibly known about the case is if [the district judge] had conducted [an] independent investigation into the legal affairs of [the plaintiffs] as relates to [the defendant].” As “evidence” of the conspiracy, the complainant relies on “a number of orders” alleged to be “wholly devoid of support in law and indeed in contravention of clear precedent.” As to the dismissal order, the complainant asserts that the “order grossly misapplied *Younger* abstention.” The complainant alleges that the district judge “unwittingly revealed the conspiracy by referring to a state court case that had been filed against [the plaintiffs] by the [defendant] subsequent to [the plaintiffs] filing [their] federal civil rights case.” The complainant concludes that the district judge “could not possibly have known about this case without either discussing it in improper *ex parte* communications with the

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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.

[defendant] or its counsel or conducting [the district judge's] own independent investigation.”

The complainant’s allegations of a conspiracy are purely speculative and “lack[] sufficient evidence to raise an inference that misconduct has occurred”; accordingly, the allegations must be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); *accord* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(C),(D). In addition, to the extent the complainant challenges the dismissal order, such challenge is “directly related to the merits of a decision or procedural ruling” and therefore must be dismissed. 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); *see also* 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.”). Accordingly, the allegations must be dismissed.

The complaint is dismissed.

May 31st, 2018



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