

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-18-90025

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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 dismissed without prejudice the inmate's petition for writ of habeas corpus and subsequently denied the inmate's motion to recuse.

The judicial complaint alleges that the district judge "should have recused" because the district judge "is the very judge who issued the ORDERS complained of in the petition as being in violation of Due Process or otherwise explained of as criminal acts by the judge in 'agreement' with ONE (1) or more persons both known and unknown to the complainant." (Underline omitted.) In addition, the judicial complaint alleges that the district judge "is abusing [the district judge's] authority and discretion, as well as conspiring with others to deprive the complainant of his rights." In the judicial complaint, the inmate claims to "possess evidence of such crimes committed by [the district judge] and his co-conspirators."

The judicial complaint's allegations are "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). The complaint calls into question the correctness of the district judge's orders (1)

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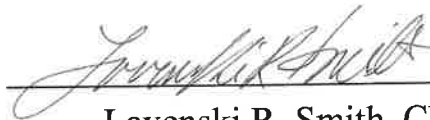
<sup>1</sup>Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit, the names of the complainant and the judicial officer complained against are to remain confidential, except in special circumstances not here present.

dismissing the inmate's habeas petition, and (2) denying the recusal motion; as such, the allegations do not constitute 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, including a failure to recuse, without more, is merits-related.”).

In addition, the 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* J.C.U.S. Rule 11(c)(1)(C),(D).

The complaint is dismissed.

May ~~11~~, 2018



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