

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-18-90026

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

This is a judicial complaint filed by a pro se litigant against the district judge who dismissed without prejudice the litigant’s civil rights action pursuant to 42 U.S.C. § 1983 and subsequently denied the litigant’s motion to recuse. The judicial complaint alleges that the district judge “has a personal bias and prejudice that determined [the] judgments [in the litigant’s] lawsuit” and asserts that the district judge should have recused “from hearing and reviewing” the litigant’s case.

The judicial complaint’s allegations of bias against the district judge “lack[] sufficient evidence to raise an inference that misconduct has occurred.” 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)(D). In addition, 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* J.C.U.S. Rule 11(c)(1)(B). The complaint calls into question the correctness of the district judge’s order denying the litigant’s motion to recuse; as such, the allegation does 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.”).

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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.

The complaint is dismissed.

May 22, 2018



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