

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-18-90046

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

This is a judicial complaint filed by an inmate against the United States district judge presiding over the inmate's petition for writ of habeas corpus. The judicial complaint alleges that the district judge "is unreasonably delaying the ruling on [the complainant's] in [f]orma [p]auperis ('IFP') [m]otion to perfect his appeal; thereby, impeding the Eighth [C]ircuit's effort to expeditiously process the [complainant's] appeal to which he has a right." The judicial complaint alleges that the district judge's actions "are retaliatory in nature" and "stem[] from the filing of his [m]andamus."

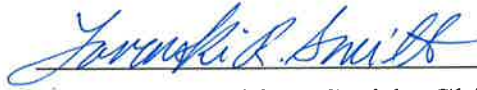
The judicial complaint's allegation of a retaliatory motive is purely speculative and "lack[s] sufficient evidence to raise an inference that misconduct has occurred"; accordingly, the allegation must be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); *accord* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(C),(D). In addition, the delay allegation must be dismissed because any alleged delay in rendering a decision or ruling in a particular case is not conduct prejudicial to the effective and expeditious administration of the business of the courts within the meaning of 28 U.S.C. § 351(a), the judicial complaint statute. Rather, this type of alleged delay is excluded as merits related. *See* J.C.U.S. Rule 3(h)(3)(B).

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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.

August 20th, 2018



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