

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-18-90052

In re Complaint of John Doe¹

This is a judicial complaint filed by an inmate against (1) the district judge who dismissed the inmate's petition for writ of habeas corpus for lack of jurisdiction, and (2) the magistrate judge who recommended that the district judge dismiss the inmate's petition. The judicial complaint alleges that the judges "knowingly and willfully subjected [the inmate] to a deprivation of his constitutional right of equal protection . . . when they conspired with State officers of the City of St. Louis, Missouri[,] to allow them time to secure convictions and sentences of ten (10) years as a persistent offender without having acquired jurisdiction by indictment." Specifically, the judicial complaint alleges that the magistrate judge "knowingly and willfully under color of law conspired with state officers of the City of St. Louis, Missouri[,] to commit an unlawful act of keeping [the inmate], an innocent black man[,] in prison by agreeing that [the inmate] was convicted" of his underlying offense. The judicial complaint alleges that the district judge "deprived [the inmate] of equal protection of the laws . . . when [the district judge] adopted the report and recommendation while a jurisdictional defect still existed because the trial court's docket sheets did not record the alleged substitute information being deposited with the clerk of court."

The criminal defendant's bare, speculative conspiracy allegations "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* 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 magistrate judge’s report and recommendation and the district judge’s order dismissing the inmate’s habeas petition. *See* 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.”).

The complaint is dismissed.

August 22, 2018



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