

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-18-90071

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se civil plaintiff against the United States district judge who dismissed the plaintiff's civil lawsuit. The record shows that after the district judge dismissed some of the plaintiff's claims, the plaintiff moved for the district judge's recusal, alleging that the district judge "failed to consider evidence . . . , misapplied the law, made factual errors, improperly favored Defendants, and disregarded the duty to be fair and impartial." The district judge denied the motion, determining that "[t]o the extent that [the plaintiff's] objection to the judicial rulings in the case is the basis for his judicial challenges, that disagreement does not warrant removal." Thereafter, the district court dismissed the remainder of the plaintiff's claims.

The judicial complaint alleges that the district judge erred in dismissing the complaint. Specifically, it alleges that the district judge erred in holding that the *Rooker-Feldman*² doctrine barred his claims, failed to appropriately cite case law, and erred in holding that the defendants were entitled to qualified immunity. The judicial complaint maintains that this conduct is "evidence of prejudice and bias."

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.

²*Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923); *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

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); *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."). Moreover, the judicial complaint's bare, speculative allegations of bias are "frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii); *accord* J.C.U.S. Rule 11(c)(1)(C)-(D). Accordingly, the allegations must be dismissed.

The complaint is dismissed.

December 18, 2018



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