

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-18-90094

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se civil litigant against the United States district judge who presided over the litigant's civil rights action. The district judge granted summary judgment to the defendants based on qualified immunity on the litigant's retaliation claim, but permitted the excessive force claims against the defendants to proceed to trial. The jury found in favor of the defendants.

The judicial complaint alleges that the district judge engaged in judicial misconduct by permitting the defendants to "use an improper tactic in their defense, by using sealed information illegally." The judicial complaint maintains that the defendants wrongfully and unlawfully used the litigant's sealed record during trial, which resulted in a biased verdict. The judicial complaint asserts that the district judge "biased . . . the case [by] fail[ing] to . . . research . . . if and how [a sealed record] can be allowed" and by failing to determine if the sealed record satisfied stipulations before permitting the defendants to introduce it.

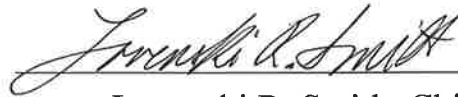
Because the allegations in the judicial complaint challenge the district judge's admission of the sealed record, the allegations are directly related to the merits of the judge's decisions or procedural rulings and are not cognizable in a judicial complaint. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct and Judicial-Disability

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.

Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rules
3(h)(3)(A), 11(c)(1)(B).

The complaint is dismissed.

December 18th, 2018



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