

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-18-90096

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 dismissed the litigant's civil rights action for failure to state a claim upon which relief may be granted.

The judicial complaint alleges that the district judge erroneously failed to recuse from the case because the district judge made the litigant uncomfortable and showed "a personal bias and prejudice" against the litigant. The judicial complaint also asserts that the litigant should prevail on the merits of his claim.

The judicial complaint's bare, speculative allegation that the district judge displayed "a personal bias and prejudice" against the litigant is "frivolous, lacking 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)(C)-(D). To the extent the judicial complaint challenges the district judge's dismissal order, 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); J.C.U.S. Rules 3(h)(3)(A), 11(c)(1)(B).

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.

The complaint is dismissed.

December 30th, 2018

A handwritten signature in cursive script, reading "Lavenski R. Smith".

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