

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-19-90027

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se civil litigant against the United States district judge assigned to the case.

The record shows that the district judge denied the pro se civil litigant's motions to appoint counsel in written orders. The civil litigant then moved for reconsideration of the district judge's orders denying his motions for appointment of counsel. In the motion for reconsideration, the civil litigant moved to disqualify the district judge based on the district judge's denial of his motions to appoint counsel. The district judge denied the civil litigant's motion to recuse, "conclud[ing] that [the civil litigant's] motion seeking the recusal of [the district judge] is predicated on the rulings in this case and . . . no basis [exists] for granting the motion."

The judicial complaint alleges that the district judge "broke the law and violated [the civil litigant's] rights" when the district judge denied the motions to appoint counsel and recusal motion. The judicial complaint alleges that the district judge lacks the "legal authority" to deny the motions to appoint counsel and recusal motion. It also alleges that the civil litigant has "research[ed]" the district judge and discovered that the district judge "owns [a] law firm and still practices as a lawyer."

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 allegations concerning the district judge’s denial of the motions to appoint counsel and recusal motion are directly related to the merits of the district 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 Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rules 4(b)(1), 11(c)(1)(B). To the extent the judicial complaint alleges that the district judge continues to own a law firm and practice law, these allegations are “frivolous [and] lack[] 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).² Accordingly, the allegations must be dismissed.

July 24, 2019



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

²The exhibit attached to the judicial complaint purporting to show that the district judge owns a law firm and continues to practice law is a website last “updated” on “11/20/2013.” The district judge assumed office after this date.