

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-19-90058

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se inmate against the United States district judge who is presiding over the inmate's petition for writ of habeas corpus. *See* 28 U.S.C. § 2254.

The judicial complaint alleges that the district judge has engaged in judicial misconduct by not ruling on the § 2254 petition "because [the district judge] doesn't want to grant [the complainant] relief." According to the complainant, the district judge's failure to rule on the petition is "a tactic to render a stand-still, to cease actions and cause emotional and mental instability."

The record shows that the complainant initiated the § 2254 habeas action on June 26, 2018. The state official responded to the § 2254 petition, arguing that the complainant's petition should be dismissed. The complainant replied to the state official's response and thereafter filed multiple motions from November 2018 to January 2019. In January and February 2019, the district judge denied these motions. The complainant then filed several more motions from July to November 2019. On November 19, 2019, the magistrate judge recommended that the district judge deny the § 2254 petition and all outstanding motions. The parties must submit any objections to this recommended disposition within 14 days of it.

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 record belies the judicial complaint's allegations that the district judge has ceased acting on the complainant's § 2254 action. No cognizable conduct has occurred. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 4(a) ("Cognizable Misconduct is conduct prejudicial to the effective and expeditious administration of the business of the courts."). To the extent the judicial complaint alleges that the district judge is not acting because the judge does not want to rule in the complainant's favor, such allegation is "frivolous [and] lack[s] 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.

November 25th, 2019



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