

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90001

In re Complaint of John Doe¹

This is a judicial complaint filed by the complainant against the United States district judge who presided over the complainant's criminal case.

The judicial complaint alleges that the district judge "acted with bias, prejudice, and impartiality [sic] toward Complainant causing him to serve 9 years of unlawful imprisonment and an additional unlawful 8[-]year term of supervised release due to 4 acts of judicial misconduct committed by [the district judge] during sentencing." Those alleged acts of judicial misconduct are (1) failing to calculate the complainant's time served within federal custody; (2) using prior state conviction records that were not the complainant's records to double the complainant's sentence and increase criminal history points; (3) finding drug quantities in excess of the evidence presented to increase the statutory penalties against the complainant; and (4) "obtaining a personal financial interest in the outcome of Complainant's case by using complainant's intellectual property to obtain increased bid, performance, and payment bond amounts from [the] unlawful judgment against complainant for financial gain and personal enrichment without reimbursement to Complainant."²


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.

²I note that the complainant made a similar allegation against the district judge in a prior judicial complaint, in which the complainant alleged, among other things, that the district judge "continues to utilize the illegal sentence and conviction to

The judicial complaint must be dismissed because its allegations are “directly related to the merits of a decision or procedural ruling”; specifically, they directly relate to the district judge’s sentencing determination. *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). The judicial complaint’s allegations of bias, prejudice, and personal financial interest are “frivolous [and] lack[] sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); J.C.U.S. Rule 11(c)(1)(C), (D).

The complaint is dismissed.

2/28/2020, 2020



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

receive unjust profits and gains where he has an interest in the judgment . . . while remains under the custody of the United States through Supervised Release and within a halfway house.” That judicial complaint was dismissed.