

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90006

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se inmate against the United States district judge who dismissed the complainant's civil rights action brought pursuant to 42 U.S.C. § 1983 for failure to state a claim and subsequently denied the complainant's motions for relief from judgment.

The judicial complaint alleges that the district judge "knows that [certain state] officials . . . have committed civil right[s] crimes against [the complainant] [in state court cases]." Attached to the judicial complaint is a document entitled "Proof of Service" that was filed with the complainant's first motion for relief from judgment. The Proof of Service sets forth certain documents" that the complainant submitted to the district judge that allegedly provide "proof" of the claims.

The record shows that the district judge dismissed the complainant's civil rights action for failure to state a claim. The Eighth Circuit summarily affirmed. After the district judge's dismissal order, the complainant filed a motion for relief from judgment under Federal Rule of Civil Procedure 60(b)(2), arguing that the complainant had proven the adverse jury verdict was wrong and requesting that the case be reopened and that the complainant be relieved from the court's judgment. The Proof of Service was attached to this motion. The district judge denied the motion,

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.

reasoning that habeas corpus was the exclusive remedy by which the complainant could challenge confinement. The complainant then moved again to reopen the case under Rule 60(b), arguing that defense counsel in the state court proceeding was ineffective, that the complainant was denied the ability to present evidence in state court, and that the prosecutor was not immune from suit. The district judge denied the motion, finding that the state court ruling had no bearing on the § 1983 claim. The complainant appealed, requesting that the Eighth Circuit read his Rule 60(b) motions together and reopen the civil action. The Eighth Circuit summarily affirmed the district court.

By asserting that the district judge knows about certain civil rights violations by virtue of the Proof of Service that was attached to the first motion for relief from judgment, the judicial complaint challenges the district judge's dismissal order and orders denying the motions for relief from judgment. As a result, the allegation is directly related to the merits of the district judge's decisions and is not cognizable in a judicial complaint. *See* 28 U.S.C. § 352(b)(1)(A)(ii); J.C.U.S. Rules 4(b)(1), 11(c)(1)(B).

The complaint is dismissed.

2/28/2020, 2020



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