

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90008

In re Complaint of John Doe¹

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

Attached to the judicial complaint is a document entitled "Brief in Support of Motion for Change of Venue from Judge" filed in the lower court, which the district judge construed as a recusal request. In that brief, the complainant requested "a change of venue of judge due to abuse of discretion" relating to the district judge's denial of the complainant's motion to stay so that the complainant could "return to state court to present additional evidence of [the complainant's] innocence." The district judge denied the complainant's recusal request as "frivolous."

The judicial complaint's allegation that the district judge abused its discretion in denying the complainant's motion to stay and in denying the complainant's recusal request 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. Rule 4(b)(1) ("Cognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling, including a failure to recuse."); *see also* J.C.U.S. Rule 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.

3/3/2020, 2020



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