

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90016

In re Complaint of John Doe¹

This is a judicial complaint filed by prisoner against the United States district judge who dismissed without prejudice the prisoner's civil rights action.

In dismissing the complainant's civil rights action, the district judge explained that the complainant "has filed at least three civil actions that were dismissed on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted." Relying on 28 U.S.C. § 1915(g), the district judge concluded that the complainant "may proceed in forma pauperis in this action only if he 'is under imminent danger of serious physical injury.'" The district judge determined that the complainant's allegations failed to meet this standard. As a result, the district judge denied the complainant's motion to proceed in forma pauperis and dismissed the case without prejudice to the filing of a fully paid complaint.

The judicial complaint alleges that the district judge failed to follow 28 U.S.C. § 1915(g) in dismissing his complaint and that such action constitutes judicial misconduct.

The judicial complaint must be dismissed because its allegation is "directly related to the merits of a decision or procedural ruling"; specifically, the allegation

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.

directly relates to the district judge’s memorandum and order dismissing the complainant’s civil rights action. *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 complaint is dismissed.

May 26, 2020



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