

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-20-90023

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In re Complaint of John Doe<sup>1</sup>

This is a judicial complaint filed by a civil litigant against the United States district judge who dismissed the complainant's civil rights action for failure to state a claim upon which relief can be granted. *See* Fed. R. Civ. P. 12(b)(6).

The judicial complaint alleges that the district judge "never had federal jurisdiction of the subject matter, in this lawsuit." It further alleges that the district judge "called the plaintiff a liar, act[ed] in bad faith, described the lawsuit as frivolous," and indicated the complainant would be banned from the courthouse.

I have reviewed the record. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) 11(b). In its memorandum and order dismissing the civil rights action, the district judge explained that the complainant had responded to the defendant's motion to dismiss "by filing a host of meritless and nonsensical motions which do nothing to correct the deficiencies of the complaint." The district judge denied these motions "as meritless." Despite the district judge's dismissal of the complaint, the complainant "continued to file meritless motion after meritless motion, insisting that a default judgment arose automatically int his case and that he is therefore entitled to relief." The district judge determined that the complainant "is not entitled to continue filing vexatious and

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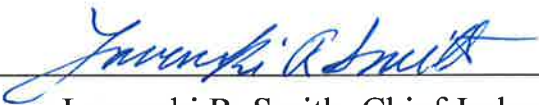
<sup>1</sup>Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit, the names of the complainant and the judicial officer complained against are to remain confidential, except in special circumstances not here present.

harassing motions in this closed case” and characterized the complainant’s “latest round of motions” as “nonsensical and patently meritless.” The district judge stated that “[i]f plaintiff files any more motions in this closed case, I will recommend to the Court *en banc* that it bar plaintiff from future filings. *This is plaintiff’s final warning. Stop filing motions in this closed case.*” Thereafter, the complainant filed a motion for leave to proceed in forma pauperis on appeal. The district judge denied the motion, explaining that “plaintiff’s appeal is frivolous and not taken in good faith.”

Based on my review of the record, no evidence exists “to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); *accord* J.C.U.S. 11(c)(1)(D). To the extent the judicial complaint challenges the district court’s dismissal of the civil complaint or other rulings, it must be dismissed because its allegations are “directly related to the merits of a decision or procedural ruling.” *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.

6/1/2020, 2020

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