

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90024

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se inmate against a United States district judge who served as the chief judge of the district. The judicial complaint concerns the district judge's handling of the inmate's complaint about his former lawyer who represented the inmate in his habeas case.

The district court docket shows that on May 24, 2012, the lawyer filed a habeas petition on behalf of the complainant. On July 10, 2012, the lawyer was suspended for two months from the practice of law by the State Supreme Court's Committee of Professional Conduct. On December 28, 2012, the complainant's habeas petition was dismissed. On January 10, 2013, the lawyer moved for relief from judgment on behalf of the complainant based on the lawyer's alleged mistake and excusable neglect. On January 25, 2013, the lawyer moved to withdraw as the complainant's counsel. On January 30, 2013, the motion for relief from judgment was granted and the lawyer's motion to withdraw were granted; however, the complainant's petition for habeas relief was again denied.

On April 24, 2018, the clerk's office for the United States district court in which the judge sits confirmed to the complainant via letter that it had received notification of the lawyer's two-month suspension "dated July 10, 2012, which was

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.

in effect for two months.” The clerk’s office advised the complainant that “[t]his matter was forwarded to the Chief Judge.” On July 12, 2018, the clerk’s office again confirmed via letter to the complainant that it had received notification of his former lawyer’s two-month suspension beginning July 10, 2012.

The judicial complaint alleges that the then-chief judge “received notice” from the clerk’s office “verifying that [his] attorney . . . had] been suspend[ed] from the practice of law within the jurisdiction” and “failed to initiate the Federal Rules of Disciplinary Enforcement procedure rule upon receiving notification of [his lawyer’s] suspension.” According to the judicial complaint, “[t]he failure to initiate the procedural rules . . . violated [the then-chief judge’s] oath of office and . . . caused prejudic[e] to the administration of justice.”

The judicial complaint challenges the then-chief judge’s handling of the complainant’s lawyer’s suspension from the practice of law; therefore, its allegations are “directly related to the merits of a decision or procedural ruling” and must be dismissed. 28 U.S.C. § 352(b)(1)(A)(ii); *accord* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States Rule 11(c)(1)(B).

The complaint is dismissed.

6/1/2020, 2020



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