

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90058

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se prisoner against the United States district judge who denied the prisoner's habeas petition. In the petition, the complainant alleged, among other things, that his first defense counsel "offered to pay the \$100 assessment fee if the US Probation Dept. indicated a minimum [Guidelines] range less than any of the three ranges the government was pushing through this (government) attorney." The district judge determined that the complainant's allegation "that one of his attorneys promised to pay his special assessment fee" was "conclusory, unsupported with sufficient evidence and legal authority." The district judge further determined that the complainant failed to prove that his counsel was ineffective.

The judicial complaint alleges that the district judge is "bias and very racist" against the petitioner. According to the complainant, the district judge "knows" that the complainant "ha[s] the receipt in [his] property" showing that defense counsel paid the assessment fee.

The judicial complaint is devoid of any evidence to substantiate the complainant's claims of bias and racism against the district judge. Therefore, the allegations must be dismissed as "frivolous [and] "lacking sufficient evidence to raise

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.

an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); *accord* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States Rule (J.C.U.S.) 11(c)(1)(C), (D). To the extent the judicial complaint challenges the district judge’s rejection of his allegation that his first defense counsel paid his special assessment fee, the complaint challenges the district judge’s denial of the complainant’s habeas petition and must be dismissed because it is “directly related to the merits of a decision or procedural ruling.” 28 U.S.C. § 352(b)(1)(A)(ii); *accord* J.C.U.S. Rules 4(b)(1), 11(c)(1)(B).

January 19, 2021



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