

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-21-90023

In re Complaint of John Doe¹

This is a judicial complaint filed by an inmate (“complainant”) against the United States district judge who denied the complainant’s habeas petition and recusal motion.

The complainant alleges that the district judge “conspired to violate the law, condemning a morally and legally innocent [person].” Attached to the judicial complaint are three exhibits: (1) the complainant’s habeas petition, (2) the complainant’s recusal motion, and (3) the district judge’s opinion and order denying the complainant’s petition and revocation motion. The complainant maintains that these exhibits show the district judge’s “many indiscretions throughout the course of” the case.

I have reviewed the exhibits and the record. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). As the district judge observed in its opinion and order, the complainant’s recusal motion set forth “three categories” of arguments in favor of recusal: (1) the district judge’s “unfavorable rulings” in the complainant’s criminal cases, (2) the district judge’s comments at the complainant’s sentencing hearing in which the district judge “express[ed] disapproval for [the complainant’s] obstinate criminal

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.

behavior,” and (3) the “fiercely and insultingly critical” language that the complainant used about the district judge. The district judge rejected all of these arguments and denied the recusal motion. The district judge next rejected all of the complainant’s arguments in favor of the habeas petition.

The exhibits and record do not support the complainant’s allegation that the district judge “conspired to violate the law”; therefore, such allegation must be dismissed as “frivolous [and] lacking sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); *accord* J.C.U.S. Rule 11(c)(1)(C), (D). To the extent the judicial complaint challenges the district judge’s opinion and order, including its ruling on the recusal motion, it must be dismissed as “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).

The judicial complaint is dismissed.

August 27, 2021



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