

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-21-90056

In re Complaint of John Doe¹

This is a judicial complaint filed by an inmate (“complainant”) against the United States district judge who dismissed the complainant’s civil rights complaint without prejudice.

The complainant alleges that the district judge (1) “showed prejudice against [the complainant] . . . as an African American”; (2) “illegally . . . denied access of [the complainant] filing and entering into due process of law 6th amendment pursuing this case which [the complainant] is paying for through forma pauperis charging \$300.00 to \$400.00 showing 11th amendment violation of alter ego and violation of 14th amendment of equal protection for [the complainant’s] rights”; (3) “didn’t do [a] recommended disposition to [the complainant], and refused to serve defendants”; (4) “didn’t serve defendants purposely to avoid [the complainant’s] complaint”; (5) “refused” the complainant’s motion for writ of prohibition and writ of mandamus; and (6) put on the docket “warning case closed.”

I have reviewed the record. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). The complainant filed a civil rights complaint and motion for leave to proceed *in forma pauperis*. The district judge granted the complainant’s motion to proceed *in*

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.

forma pauperis but ordered the complainant to “pay the full filing fee of \$350.” The district judge dismissed the complainant’s complaint “without prejudice because [the complainant] . . . failed to state a claim upon which relief can be granted.” The district judge concluded that “[a]n *in forma pauperis* appeal would not be taken in good faith” and found that “this dismissal counts as a ‘strike.’” *See* 28 U.S.C. § 1915(g). A notation appears on the docket, which states, “[p]risoner [s]trike pursuant to 28 U.S.C. § 1915(g).” Thereafter, the complainant filed a motion to amend the complaint, a motion for writ of prohibition and writ of mandamus, and a motion for recusal. The district judge denied these motions in a subsequent order. The complainant has appealed the district judge’s dismissal of the complaint.

Having reviewed the record, I conclude that it does not support the complainant’s allegation of racial prejudice; 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). The remaining allegations challenge the district judge’s docket management and orders; accordingly, they 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.

October 22, 2021



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