

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-22-90041

In re Complaint of John Doe¹

This is a judicial complaint filed by an inmate (“complainant”) against the United States district judge assigned to the complainant’s petition for writ of mandamus.

The judicial complaint alleges that the complainant “received an order from [the district judge] stating the case was dismissed.” In response, the complainant “filed a Fed. R. Civ. Pr. Rules 59 & 60(b) Motion to correct clerical error.” According to the judicial complaint, the complainant “never received a file marked copy of this motion.” The judicial complaint alleges that the district judge is not following the rules of civil procedures and “seek[s] an investigation into [the district judge’s] participation in failing to correct clerical errors and conspiring with [the defendants] to deny [the complainant] his constitutional rights to redress the wrongs of [the defendants] causing him severe mental anguish intentionally to impede [the complainant’s] litigation efforts.”

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). On March 22, 2022, the district judge entered an order dismissing without prejudice the


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.

the complainant’s petition for failure to state a claim upon which relief may be granted. The district judge also denied as moot all pending motions and certified that an *in forma pauperis* appeal from the order would not be taken in good faith. Thereafter, the complainant file a motion for leave to proceed *in formal pauperis*, motion to reopen the case, and motion for copies. The district judge granted the motion for copies, directing the clerk to send a copy of the docket to the complainant and a file-marked copy of the motion to reopen the case. But the district judge denied the motion for leave to proceed *in forma pauperis* and the motion to reopen the case. Thereafter, the complainant filed an appeal of the district judge’s dismissal order.

To the extent that the judicial complaint’s allegations challenge the district judge’s orders, 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); J.C.U.S. Rule 3(h)(3)(A) (“Cognizable misconduct . . . does not include . . . an allegation that is directly related to the merits of a decision or procedural ruling. An allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse, without more, is merits-related.”). A judicial complaint is not an alternative to an appeal of the judge’s decision. To the extent the judicial complaint alleges that the district judge conspired with the defendants or engaged in other improper conduct, the allegations are “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)(D).

Accordingly, the judicial complaint is dismissed.

July 19, 2022



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