

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-22-90044

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In re Complaint of John Doe<sup>1</sup>

This is a judicial complaint filed by an inmate (“complainant”) against the United States district judge who construed the inmate’s filing as a motion to vacate under 28 U.S.C. § 2255.

The complainant states that the judicial complaint is an “appeal . . . from an initial review order, and a denial of [a] variety of motions.” The complainant asserts that “[t]he district [judge] improperly misconstrued [the complainant’s] civil/tort lawsuit as a ‘§ 2255 motion.’”

The judicial complaint’s allegations challenge the district judge’s orders; therefore, 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* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (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.

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<sup>1</sup>Under 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.

Accordingly, the judicial complaint is dismissed.

July 19, 2022



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