

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-17-90023

ORDER

In re Complaint of John Doe¹

This is a judicial complaint filed March 13, 2017, and a supplemental complaint filed May 5, 2017, by a pro se inmate against a United States district judge and a United States probation officer for revoking and modifying conditions of supervision on a previous criminal matter.

The complaint alleges that the district judge committed judicial misconduct when the district judge credited the probation officer's report that the complainant violated the supervised release agreement from a previous criminal matter. The complainant alleged extenuating circumstances prevented compliance with the supervision release terms. The district judge, however, revoked the complainant's supervised release, granted the probation officer's motion modifying the conditions or terms of supervision, and sentenced the complainant to 90 days' imprisonment in a minimum security facility, followed by a 30-month term of supervised release.

The complainant's supplemental complaint alleges that the district judge's sentence of a minimum security placement is also an act of judicial misconduct and "a violation of the BOP's Public Safety Factor." The complainant believes that the district judge and probation officer selected a minimum security facility because the complainant had failed to complete a mandatory polygraph test and is not gainfully employed. The complaint requests the immediate reversal of the modified supervision terms so that the complainant can be "returned home and meet my expenses."

These allegations are directly related to the merits of the judges' decisions or procedural rulings and are not cognizable in a judicial complaint. *See* 28

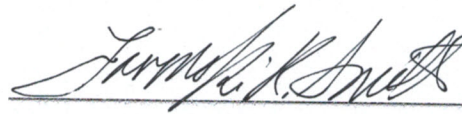
¹Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit, the names of the complainant and the judicial officer complained against are to remain confidential, except in special circumstances not here present.

U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rules 3(h)(3)(A), 11(c)(1)(B).

Further, the judicial complaint procedure is limited to United States judges; it does not apply to probation officers and other officials who work for or appear in the federal courts. *See* 28 U.S.C. §§ 351(a), (f); Rule 4 of the Rules of Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States; Rule 1(c) of the Eighth Circuit's Rules Governing Complaints of Judicial Misconduct and Disability.”

Accordingly, the complaint must be dismissed.

August 17, 2017



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