

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP Nos. 08-17-90025/08-17-90026/08-17-90027/08-17-90028/08-17-90029/08-17-90030/08-17-90031/08-17-90032/08-17-90033/08-17-90034/08-17-90035/08-17-90036/08-17-90037/08-17-90038/08-17-90039/08-17-90041/17-08-90042/08-17-90043

In re Complaint of John Doe¹

This order addresses multiple judicial complaints and supplemental complaints filed on April 14, 2017, and May 23, 2017, by a federal inmate against a United States magistrate judge and a United States district judge. The subject judges presided over complainant's criminal prosecution, denied the complainant's post-conviction petition for 28 U.S.C. §2255 habeas relief, and dismissed his case with prejudice. The complainant alleges these judges foreclosed complainant's ability to appeal because he was unable to obtain a certificate of appealability. Complainant alleges all of the judges of the Eighth Circuit failed to take appropriate action against the district judge and magistrate judge in light of their egregious acts of judicial misconduct. He asserts that their denial of the requested relief breached the Code of Judicial Conduct.

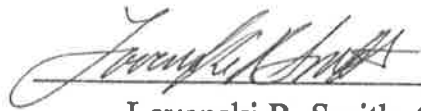
The complaint alleges that in a previously denied judicial complaint matter, the magistrate judge falsely accused the complainant of filing a post-conviction answer to a response regarding the complainant's §2255 habeas petition without permission of the court. The complaint alleges that the complainant's constitutional due process rights were violated and that his habeas petition was wrongfully denied because the magistrate judge knowingly and intentionally used materially false, fictitious, and fraudulent statements against the complainant in the report and recommendation and ignored the undisputed evidence in the complainant's objections. The complainant contends that this resulted in the district judge's adverse ruling against him.

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 subject judicial officer(s) remain confidential, except in special circumstances not here present.

Reviewing the record in this matter clearly shows that the complainant's allegations are "directly related to the merits of a judges' decisions or procedural rulings." As such, these claims are not cognizable in a judicial complaint and must be dismissed. *See* 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 3(h)(3)(A), 11(c)(1)(B). "An allegation that calls into question the correctness of a judge's ruling, including a failure to disqualify, without more, is merits-related." J.C.U.S. Rule 3(h)(3)(A). The allegations of improper conduct "lack sufficient evidence to raise an inference that misconduct has occurred" and are "frivolous" 28 U.S.C. §352(b)(1)(A)(iii); *accord* (J.C.U.S.) Rules 11(c)(1)(C)(D).

The complaints are dismissed.

August 28, 2017



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