

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-17-90060

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se litigant against a United States district judge who dismissed his § 1983 claim. *See* 42 U.S.C. § 1983.

In the judicial complaint, the complainant alleges that he has was “made aware of a conversation between the [district] judge and the defense attorney that borders on slander. The judges [sic] told [the defense attorney] to take the lead and draft the joint trial scheduling.” According to the complainant, he could have drafted the scheduling order. Additionally, the complainant alleges that the district judge does not understand § 1983 and “drafted a short mocking document telling [the complainant] the case is dismissed.”

As to the complainant’s bare, speculative allegation that the district judge conversed with defense counsel and slandered him, such allegation “lack[s] 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). The remainder of the allegations are “directly related to the merits of a decision or procedural ruling” and therefore must be dismissed. 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.) Rule 11(c)(1)(B); *see also* J.C.U.S. Rule 3(h)(3)(A) (“An allegation that

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.

calls into question the correctness of a judge's ruling . . . without more, is merits-related.”).

The complaint is dismissed.

September 8, 2017

A handwritten signature in cursive script, reading "Lavenski R. Smith". The signature is written in black ink and is positioned above a horizontal line.

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