

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-17-90076

JCP No. 08-17-90077

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

This is a judicial complaint filed by an incarcerated pro se litigant against the United States magistrate judge and United States district judge assigned to his case.

The judicial complaint alleges that the magistrate judge and the district judge “unjustly denied petitioner his right to be heard and fair due process of the law, by refusing to acknowledge, address, analy[ze], and rule on the merits in petitioner[‘]s fed[eral] habeas [petition].” According to the complainant, in denying and dismissing his petition for writ of habeas corpus, the magistrate judge and the district judge denied him a “fair opportunity to challenge his deprivation of liberty.”

These allegations are directly related to the merits of the respective judges’ decisions or procedural rulings and are not cognizable in a judicial complaint. 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 calls into question the correctness of a judge’s ruling . . . without more, is merits-related.”). Accordingly, they must be dismissed.

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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.

The complaint is dismissed.

September ~~16th~~, 2017

A handwritten signature in cursive script, reading "Lavenski R. Smith".

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