

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-18-90066

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se inmate against the United States district judge who dismissed the inmate's petition for writ of habeas corpus under 28 U.S.C. § 2254 as barred by the Antiterrorism and Effective Death Penalty Act's (AEDPA) one-year statute of limitations. The judicial complaint alleges that the district judge engaged in judicial misconduct by never inquiring into the merits of the habeas petition but instead applying the AEDPA statute of limitations.

The judicial complaint's allegation is "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 calls into question the correctness of a judge's ruling, . . . without more, is merits-related."). Accordingly, the allegation must be dismissed.

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.

The complaint is dismissed.

October 29, 2018



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