

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-18-90070

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

This is a judicial complaint filed by a pro se civil litigant against the United States district judge who dismissed the litigant's civil rights action.

After commencement of the civil rights action, the litigant moved for appointment of counsel. The district judge denied the motion, concluding that there is no right to appointed counsel in a civil case. The district judge subsequently dismissed with prejudice based on sovereign immunity the litigant's claims against nine defendants and dismissed without prejudice the litigant's claims against seven other defendants. Thereafter, the district judge ordered the litigant to show cause why the action against the five remaining defendants should not be dismissed for failure to serve process properly. After concluding that the litigant did not address the failure to serve the remaining defendants properly, the district judge dismissed without prejudice the litigant's claims against those defendants.

The judicial complaint alleges that the district judge "use[d] the Judge's office to obtain special treatment for the Defendants. . . by . . . not maintaining and enforcing high standards of conduct [and] acting with fear and favoritism . . . toward the Defendants." Specifically, the judicial complaint alleges that the district judge demonstrated favoritism by "dropping [the defendants] from [the litigant's] Lawsuit,

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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.

without 100% probable cause” by determining certain defendants were entitled to immunity. The judicial complaint also maintains that the district judge “[a]ccept[ed] special favors” from the defendants and “knowingly and willingly” “wrongfully mishandled [the litigant’s] lawsuit.” The judicial complaint asserts that the district judge “showed no Respect for the Law,” failed to comply with the law, “showed patterns of improper activity,” violated the litigant’s rights to appointed counsel, engaged in improper discussions with the defendants, retaliated against the litigant, “showed egregious manner of misconduct,” “wrongfully mishandl[ed]” the lawsuit, and permitted “‘OUTSIDE INFLUENCES’ [to] interfere with the Judicial conduct and judgment.”

The judicial complaint’s bare, speculative allegations against the district judge are “frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); *accord* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(C)-(D). To the extent the judicial complaint challenges the district judge’s dismissal order denying appointment of counsel and dismissal orders, the allegations are directly related to the merits of the judge’s decisions or procedural rulings and are not cognizable in a judicial complaint. *See* 28 U.S.C. § 352(b)(1)(A)(ii); J.C.U.S. Rules 3(h)(3)(A), 11(c)(1)(B).

The complaint is dismissed.

December 20<sup>th</sup>, 2018



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