

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-19-90013

In re Complaint of John Doe¹

This is a judicial complaint by a pro se inmate against the district judge who dismissed the inmate's § 1983 lawsuit for failure to pay the statutory filing fee and ordered the clerk's office "to return any document submitted by [the inmate], instead of filing it for docketing, until [the inmate] has paid the full statutory filing fee." The judicial complaint alleges that the district judge's prevention of the clerk's office from filing any of the inmate's submitted documents constitutes judicial misconduct.

The allegation is "directly related to the merits of a decision or procedural ruling" and is not cognizable in a judicial complaint. *See* 28 U.S.C. § 352(b)(1)(A)(ii); 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). Furthermore, the allegation that the district judge engaged in judicial misconduct is "frivolous, lacking 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)(C)-(D). 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.

March 14, 2019



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