

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-19-90031

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se inmate against the United States district judge who denied the inmate's petition for a writ of habeas corpus seeking to vacate, set aside, or correct the inmate's sentence under 28 U.S.C. § 2255.

The judicial complaint alleges that the district judge denied the inmate due process by denying a certificate of appealability when the judge denied the inmate's § 2255 petition. In addition, the judicial complaint alleges that the district judge has "been very bias[ed] against [the inmate]," sentencing the inmate to a harsher sentence than the inmate's codefendants.

These allegations are directly related to the merits of the district judge's decisions and are 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 4(b)(1), 11(c)(1)(B). To the extent the judicial complaint alleges that the district judge was biased against the inmate in sentencing the inmate to a harsher sentence than the inmate's codefendants, such allegation "lack[s] sufficient evidence to raise an inference that misconduct has

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.

occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); *accord* J.C.U.S. Rule 11(c)(1)(D). Accordingly, the allegations must be dismissed.

The complaint is dismissed.

October ~~28th~~, 2019



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