

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90013

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se inmate against the United States district judge who presided over the complainant's criminal case.

The judicial complaint alleges that the district judge lacked jurisdiction over the criminal case because of a facially deficient indictment. Specifically, the complainant alleges that the indictment "failed to allege [an] essential element" of the crime charged. The record shows that the complainant raised a similar issue in a motion to vacate the criminal judgment. The district judge denied the motion to vacate the judgment, explaining that the Federal Rules of Civil Procedure are inapplicable to criminal proceedings.

The judicial complaint challenges the district judge's adjudication of the complainant's criminal case; such allegation is directly related to the merits of the district judge's decisions and is not cognizable in a judicial complaint. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial Conference of the United States (J.C.U.S.) Rules 4(b)(1), 11(c)(1)(B).

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 5, 2020

A handwritten signature in blue ink, reading "Lavenski R. Smith", written over a horizontal line.

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