

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-20-90053

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

This is a judicial complaint filed by a pro se prisoner against the United States district judge who dismissed the prisoner's habeas petition. The judicial complaint alleges that the district judge exhibited bias towards the complainant by denying the habeas petition and a certificate of appealability, "turned a blind eye" to crimes committed by the prosecutor and members of the sheriff's department assigned to the complainant's case, and showed bias and misconduct in waiting 81 days before entering an order denying the complainant's motion to appeal in forma pauperis.

The judicial complaint is devoid of any evidence to substantiate the complainant's claims of bias against the district judge. Therefore, the allegations must be dismissed as "frivolous [and] "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 Rule (J.C.U.S.) 11(c)(1)(C), (D). Furthermore, "[c]ognizable misconduct does not include an allegation about delay in rendering a decision or ruling" in the absence of "an improper motive in delaying a particular decision." J.C.U.S. Rule 4(b)(2). To the extent the judicial complaint challenges the district court's dismissal order or other rulings, the allegations must be dismissed because they are "directly related to the

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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.

merits of a decision or procedural ruling.” 28 U.S.C. § 352(b)(1)(A)(ii); *accord* J.C.U.S. Rules 4(b)(1), 11(c)(1)(B).

The complaint is dismissed.

January 19, 2021

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