

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-21-90055

In re Complaint of John Doe¹

This is a judicial complaint filed by an inmate (“complainant”) against the United States district judge who presided over the complainant’s criminal case and pro se motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255.

The complainant alleges that the district judge intentionally made legal and factual errors in finding the complainant competent despite evidence that the complainant was incompetent and in rejecting the complainant’s argument in the § 2255 motion that the complainant was never restored to competency prior to being convicted.

Having reviewed the record,² including all complained-of orders and actions of the district judge, I conclude that to the extent that the judicial complaint’s allegations challenge the district judge’s decisions, they must be dismissed as “directly related to the 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). To the extent the judicial complaint alleges that the district judge acted intentionally to harm the complainant, the allegations are “lacking sufficient evidence to raise an inference that

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.

²*See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b).

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 judicial complaints are dismissed.

May 10, 2022

A handwritten signature in cursive script, reading "Lavenski R. Smith", is written over a horizontal line.

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