

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-21-90058

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

This is a judicial complaint filed by an inmate (“complainant”) against the United States district judge who presided over the complainant’s criminal case.

The judicial complaint alleges that the complainant filed “independent” “Hazel-Atlas [a]ctions” naming the district judge as a defendant. According to the complainant, the Hazel-Atlas actions are independent civil actions requiring separate civil case numbers. The complainant maintains that the district judge lacked the authority and jurisdiction to issue any orders denying these actions. The complainant asserts that the district judge committed fraud on the court by issuing orders despite being named as a defendant in the actions. The complainant also alleges that the district judge had notice “of his fellow judicial officers[’] felony crimes that they had committed [in other cases],” failed to report those crimes, and “attempt[ed] to cover-up and conceal said felony crimes committed by . . . fellow judicial officers.”

I have reviewed the record. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). The record shows that the complainant submitted an “Affidavit Petition and Brief to Vacate Void Judgment and Sentencing Order” in the criminal case. The district judge reviewed this filing and determined that the “submission is frivolous and has no

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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.

merit.” The district judge denied the complainant’s “latest request to vacate [the] judgment and sentence.” The district judge subsequently “refuse[d] to accept [the complainant’s] [nearly identical] redundant filing.”

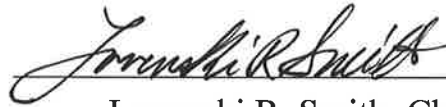
Next, the complainant filed an “‘Affidavit Complaint–Motion 60(d)(3)–Hazel-Atlas Action’ based on [the complainant’s] . . . allegations of fraud on the [c]ourt in [the] criminal case . . . and a Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody.” The district judge noted that these submissions “raise[d] the same issues and arguments repeatedly reviewed and rejected by the [c]ourt as frivolous and without merit.” The district judge explained that even if the complainant’s “motion were timely, it would still fail on the merits.” The district judge denied the motions.

Finally, the complainant filed an “Independent Hazel-Atlas Action . . . again alleg[ing] fraud upon the [c]ourt in [the] criminal case.” The district judge noted the prior denial of a “very similar” filing. “In light of [the] pending appeal covering the same issues, the [district judge] denie[d] [the complainant’s] latest ‘Independent Hazel-Atlas Action’ . . . at this time.”

To the extent that the judicial complaint’s allegations challenge the district judge’s orders, it 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 concealed or covered up certain crimes, the allegations are “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 judicial complaint is dismissed.

May 10, 2022

A handwritten signature in cursive script, reading "Lavenski R. Smith".

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