

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-22-90009

In re Complaint of John Doe¹

This is a judicial complaint filed by a petitioner (“complainant”) against the United States district judge assigned to the complainant’s petition for writ of habeas corpus.

The judicial complaint states that the district judge denied the complainant’s motion for appointment of counsel because the case was not factually or legally complex. Based on this denial, the complainant “questions the competency of [the district judge].” In a supplement to the judicial complaint, the complainant alleges that the district judge is partial and unfair based on the district judge’s refusal to issue an opinion on the petition.

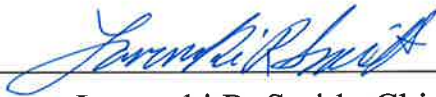
To the extent that the judicial complaint’s allegations challenge the district judge’s order denying the motion for appointment of counsel, they must be dismissed as “directly related to the merits of a decision or procedural ruling.” 28 U.S.C. § 352(b)(1)(A)(ii); *accord* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rules 4(b)(1), 11(c)(1)(B). Additionally, “[c]ognizable misconduct does not include an allegation about rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated

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.

cases.” J.C.U.S. Rule 4(b)(2). Here, the complainant has presented no evidence of improper motive or habitual delay to support the allegation of delay in rendering a decision on the petition; therefore, that allegation must be dismissed. Finally, to the extent the judicial complaint alleges that the district judge is incompetent, the allegations are “frivolous” and “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 24, 2022



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