

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-22-90075

In re Complaint of John Doe¹

This is a judicial complaint filed by an inmate (“complainant”) against the United States district judge assigned to the complainant’s petition for writ of habeas corpus. *See* 28 U.S.C. § 2254.

The judicial complaint challenges the rationale of several of the district judge’s orders, including the following (1) memorandum and order upon initial review of the habeas corpus petition; (2) memorandum and order on the complainant’s objection to respondent filing a reply brief and objection to designation of state court records in support of answer; (3) order granting respondent’s motion for extension of time; (4) memorandum and order denying the complainant’s motion for reconsideration, denying as moot the complainant’s objection to the respondent’s motion for extension and motion for default judgment, and granting the complainant’s motion for extension of time to file brief in response to the respondent’s answer.

The judicial complaint alleges that the district judge’s orders “show[] favoritism on behalf of the [state] benefitting the [r]espondent.” According to the judicial complaint, the district judge’s “unlawful patterns and practices of discrimination against [p]ro [s]e [p]etitioners . . . has been quite regular.” In summary, the judicial complaint claims that the district judge’s “granting of the [r]espondent[‘s] [m]otion for [e]xtension shows favoritism and bias towards the benefit of the

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.

[r]espondent. . . [The district judge's] [u]nlawful [m]isconduct reveals high degrees of favoritism for [the respondent] as well as degrees of antagonism towards [the complainant] as to make a fair judgment impossible.”

Having reviewed the record,² I conclude that to the extent that the judicial complaint challenges the district judge's various orders, the allegations 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 showed bias against the complainant, discriminated against the complainant, or engaged in other unlawful misconduct, 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).

November 8, 2022



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

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