

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-22-90109

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

This judicial complaint is filed 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, and prisoner civil rights case, *see* 42 U.S.C. § 1983.

The judicial complaint alleges that the district judge discriminated against the complainant because the complainant is “a black inmate with sex charges.” According to the complainant, the district judge “refused to address” the complainant’s motion for relief from judgment in the habeas case and “continued to show bias and prejudice conduct” by “refus[ing] to address” the complainant’s motions in the § 1983 case.

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 habeas case was reassigned to the district judge. The district judge denied the complainant’s “ninth motion for relief from judgment . . . for the same reasons articulated in the [prior district judge’s] order denying [the] first motion for relief from judgment.” The complainant subsequently filed another motion for relief from judgment, which the district judge denied in a text entry. Thereafter, the complainant filed two more motions for relief from judgment. The district judge again denied 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.

motions “for the same reasons articulated in the order denying [the] first motion for relief from judgment.”

In the § 1983 case, the record shows that the district judge dismissed the complaint for failure to state a claim on which relief may be granted. The complainant subsequently moved for relief from judgment, which the district judge denied “because [the] complaint was dismissed for failure to state a claim under either *Bivens* or 42 U.S.C. section 1983.” The complainant then moved to alter or amend the judgment, which the district judge denied. The complainant filed a second motion for relief from judgment, which the district judge “denied for the same reasons that [the] first motion for relief from judgment was denied.” Thereafter, the complainant filed a motion for recusal. The district judge denied the recusal motion, concluding that “no circumstances . . . warrant[ed] recusal.” Subsequently, the district judge denied the complainant’s second motion to alter the judgment and another motion for relief from judgment.

To the extent that the judicial complaint challenges the district judge’s aforementioned rulings, 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 was biased and prejudiced against the complainant, the allegations are “frivolous, 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.

June 27, 2023



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