

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-22-90110

In re Complaint of John Doe¹

This judicial complaint is filed by an inmate (“complainant”) against the United States magistrate judge originally² assigned to the complainant’s petition for writ of habeas corpus, *see* 28 U.S.C. § 2254.

The judicial complaint alleges that the magistrate judge “demonstrated hallmarks for violating the Independent and Adequate Ground Doctrine . . . by not accepting substantial facts of the case, wherein by drawing conclusions from no source of evidence.” It further alleges that the magistrate judge discriminated against the complainant based on the complainant’s “status as an inmate or [p]ro [s]e status by depriving the [complainant] from impartial proceeding[s] and [a] fair opportunity to allow the facts to lay where they are.”

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 after initial reviewing the complainant’s § 2254 petition, the magistrate judge determined that the complainant’s “petition may be unexhausted or

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.

²After the complainant filed this judicial complaint, the magistrate judge entered an order of recusal.

procedurally defaulted, in whole or in part” and ordered the parties to show cause why the petition should not be dismissed for those reasons.

To the extent that the judicial complaint challenges the magistrate judge’s order to show cause, 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 magistrate judge discriminated 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 28, 2023



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