

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-23-90040

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

This is a judicial complaint filed by a criminal defendant (“complainant”) against the United States district judge assigned to the complainant’s criminal case.

The judicial complaint alleges that the district judge failed to act in accordance with the district judge’s constitutional oath. According to the judicial complaint, the statute under which the complainant was charged, 18 U.S.C. § 922(g)(1), is unconstitutional because possession of a firearm is protected by the Second Amendment. The judicial complaint alleges that, as a result, the district judge lacks subject matter jurisdiction over the indictment.

To the extent the judicial complaint’s allegations challenge the district judge’s decisions regarding the indictment, 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). Furthermore, the allegation that the district judge violated the district judge’s constitutional oath is “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).

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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.

The judicial complaint is dismissed.

July 17, 2023



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