

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-23-90071

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

This is a judicial complaint filed by an inmate (“complainant”) against the United States district judge assigned to the complainant’s motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255.

The judicial complaint alleges that the district judge is biased against the complainant because of prior decisions the district judge rendered in the complainant’s underlying criminal case and therefore should recuse in the § 2255 action.

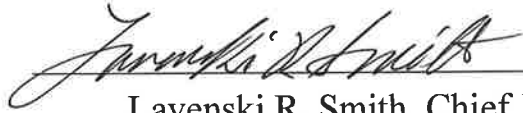
To the extent the judicial complaint challenges the district judge’s prior orders in the underlying criminal case, it must be dismissed as “directly related to the merits of a decision or procedural ruling.” 28 U.S.C. § 352(b)(1)(A)(ii); *accord* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rules 4(b)(1), 11(c)(1)(B). To the extent the judicial complaint alleges that the district judge is biased against the complainant because of its prior decisions in the underlying criminal case, such 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).

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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 18, 2023

A handwritten signature in cursive script, reading "Lavenski R. Smith", written over a horizontal line.

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