

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-23-90113

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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 habeas corpus case filed under 28 U.S.C. § 2255.

The judicial complaint alleges that the district judge “violated the Judicial Code of Conduct, by showing bias, the appearance of bias, and by appearing to willfully ignore facts on the record that demonstrate law enforcement and prosecutorial misconduct, such as [o]ngoing multiple instances of perjury, perjured documents, and falsified investigation report[s].” According to the judicial complaint, the district court’s actions “appear intentional.” The judicial complaint alleges that the district court’s misconduct stems from its denial of the complainant’s motion to obtain evidence and documents in support of habeas corpus claims and motion for relief from order, as well as the district court’s striking from the record the complainant’s reply to the defendant’s response to the complainant’s motion to vacate, set aside, or correct sentence.

I have reviewed the record, including the motions and orders referenced in the judicial complaint. *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

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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 complainant moved to obtain evidence and documents in support of habeas corpus claims. In the motion, the complainant alleged that “new proof of falsified documents” and “evidence of multiple perjured statements” were discovered, which “creat[ed] a reasonable likeliness that more exist, and that this evidence was not available during trial, due to counsel’s failure to prepare and investigate.” The complainant sought “to further develop his claims.” In its order denying the motion, the district court discussed each of the discovery requests made in the complainant’s motion. After reviewing the record, the district judge concluded that discovery was unwarranted because the complainant failed to satisfy the burden of establishing the requisite “good cause” to support the discovery requests. Specifically, the district judge determined that the complainant did not provide specific evidence that the discovery requests would support the complainant’s claims, provided only generalized statements about the possibility that discoverable material may exist, or made statements unsupported by the record.

The complainant then moved for relief from that order. The district judge denied the motion, concluding that the complainant failed to show that the district judge’s denial of the discovery motion “was the result of mistake, or that it will result in injustice.” *See* Fed. R. Civ. P. 60(b)(1). The district judge further determined that the complainant “fail[ed] to show exceptional circumstances or, by clear and convincing evidence, that [the complainant] has the right to relief . . . s[ought] under Rule 60(b).”

The district judge also struck from the record the complainant’s reply to the defendant’s response to the complainant’s motion to vacate, set aside, or correct sentence. In a text entry, the district judge gave the complainant until a date certain “to file a [r]epley that does not exceed 45 pages . . . and is in 12-point font or larger, double-spaced.”

To the extent the judicial complaint challenges any of the district judge’s orders, 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* 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 against the complainant in denying the complainant’s motions or striking a filing from the record, 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).

Accordingly, the judicial complaint is dismissed.

January 22, 2024



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