

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

**FILED**

APR 4 - 2014

MICHAEL GANS  
CLERK OF COURT

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JCP No. 08-14-90002

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

This is a judicial complaint filed on January 13, 2014, by a pro se civil litigant against the United States district court judge who issued an order adverse to the complainant. The complainant had filed a complaint, pro se, against multiple defendants in the district court. The district judge dismissed the complaint for lack of subject matter jurisdiction because the “complaint fail[ed] to allege either a violation of constitutional or federal law or meet the requirements for diversity jurisdiction.” The complainant directly appealed to the United States Court of Appeals for the Eighth Circuit, which affirmed the district court, denied a petition for rehearing, and issued its mandate. After the mandate issued, the complainant filed a “motion for entry of clerk’s default against defendants” in the district court. The district judge issued an order decreeing no further filings would be accepted in the case. The complainant then filed a petition for writ of mandamus with the United States Court of Appeals for the Eighth Circuit, which denied the petition and again issued its mandate.

In this judicial complaint, liberally construed, the complainant alleges the district judge (1) refused to obey the mandates of the United States Court of Appeals for the Eighth Circuit; (2) did not provide the complainant with a hearing; (3) did not provide the complainant with a jury trial; (4) did not “grant” the complainant’s

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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 (E.C.), the names of the complainant and the judicial officer complained about are to remain confidential, except in special circumstances not present here.

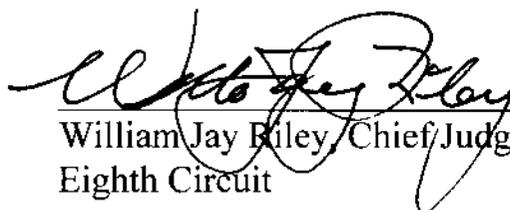
constitutional “challenges”; (5) violated the complainant’s constitutional rights; and (6) violated the “Code of Judicial Conduct for U.S. Judges.” The complainant also alleges the district court staff violated the “Code of Conduct for Judicial Employees.”

The judicial complaint procedure is limited to United States judges and does not apply to other officials who work for or appear in the federal courts. See 28 U.S.C. § 351(a), (d)(1); Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 4; E.C. Rule 1(c). Thus, the complainant’s allegations of misconduct by the district court staff or any other non-judicial persons are not considered here.

The complainant’s allegations against the district judge must be dismissed because they are directly related to the merits of the judge’s decision or procedural rulings and are therefore not proper subjects of a judicial complaint. See 28 U.S.C. § 352(b)(1)(A)(ii); J.C.U.S. Rule 11(c)(1)(B). “An allegation that calls into question the correctness of a judge’s ruling . . . without more, is merits-related.” J.C.U.S. Rule 3(h)(3)(A). To the extent the complainant proposes the district judge should have recused, such charges must be dismissed where the failure to recuse is founded on the correctness of the district judge’s ruling. Id. In addition, the complainant’s allegations of judicial misconduct are “frivolous [and] lacking sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); see J.C.U.S. Rule 11(c)(1)(C), (D); E.C. Rule 4(c)(3).

The complaint is dismissed.

March 26, 2014

  
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William Jay Riley, Chief Judge  
Eighth Circuit