

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-14-90004

In re Complaint of John Doe¹

This is a judicial complaint filed on March 10, 2014, by a federal inmate against the United States district court judge who presided over the complainant's jury trial and subsequent habeas motion filed pursuant to 28 U.S.C. § 2255. The complaint also purports to be against the judge's "unharnassed" clerks. In this judicial complaint, the complainant requests "redress of grievances per the First Amendment as interwoven with fundamental rights to fair jury trial-process." Specifically, the complainant alleges the district judge (1) was a "[l]ackey[]" for "federal court officials[]" "profiteering" by "collect[ing] fees and costs"; (2) improperly denied "necessary financial assistance of counsel-process" during the postconviction proceeding; (3) refused to recuse despite the judge's "complicity in the fraud"; (4) "denied in forma pauperis status" to the complainant; (5) "refused to address the merits" of the complainant's habeas motion; (6) allowed clerks, acting as "Lackey[']s' for the DOJ," to "machine stamp any and all necessary directives containing the Judge[']s name"; (7) failed to construe liberally all pleadings although the complainant is unrepresented in the habeas proceeding; (8) erred by finding the complainant's habeas motion untimely; (9) obstructed the "release of evidence" the complainant needs; (10) improperly "allowed [the judge's] officer - defense attorney to avoid any challenge to 'another bite of the apple' and the expense of a second

¹Under 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 judge complained about are to remain confidential, except in special circumstances not present here.

trial”; and (11) wrongly denied a certificate of appealability. The complainant requests that a “real judge be assigned to this case.”

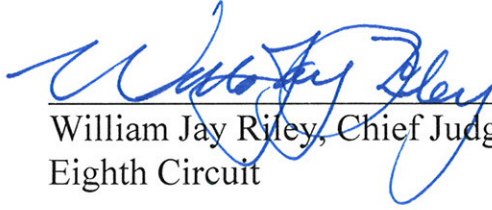
The complainant also alleges (a) “outrageous - overzealous” federal prosecutors engaged in the complainant’s “wrongful criminal prosecution” and “refused to disqualify themselves,” (b) the complainant’s court-appointed counsel filed a “frivolous direct appeal . . . designed simply to collect fees and costs” and “refused to release the case file” to the complainant, (c) the federal prison did not provide a “meaningful legal assistance program,” and (d) the clerks of court subjected the complainant to a “procedural morass.”

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 prosecutors, defense attorneys, 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 decisions 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, including a failure to recuse, 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. See id. The complainant’s remaining 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.

May 12, 2014



William Jay Riley, Chief Judge
Eighth Circuit