

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-14-90011

In re Complaint of John Doe¹

This is a judicial complaint filed on April 23, 2014, by a state inmate against the United States district court judge who is presiding over the resolution of the complainant's application for a writ of habeas corpus under 28 U.S.C. § 2254. The complainant "seek[s] relief from unlawful unconstitutional vindictive prosecution and [imprisonment] by the state . . . judicial official with the aid of the United States district court[s] through the clerks [and] the pro se staff and judges." The complainant suggests that "someone that work[s] in the pro se department" purposely misfiled the complainant's submissions to the district court in order "to give the state . . . more time to file for an extension of time and commit[] more fraud through the assistan[ce] of the clerks, pro se staff[,] and the United States district judges." The complainant states he has "been filing for relief [since] 2007," and "the federal courts have charge[d him] thousands of doll[a]rs in legal fee[s, and] the pro se staff purposely put the wrong information on the court's documents . . . in order to have the case dismiss[ed] for one technicality or the other . . . in aid of the . . . state court judicial system."

The complainant outlines his substantive complaints with his state court convictions, stating he "is asking for his [equal protection] of the United States of America constitutional laws." The complainant argues, "The federal courts judges

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.

and staff that [executed unethical] and unconstitutional acts of due process of the laws in the state . . . have to be hel[d] accountable [for their] actions.”

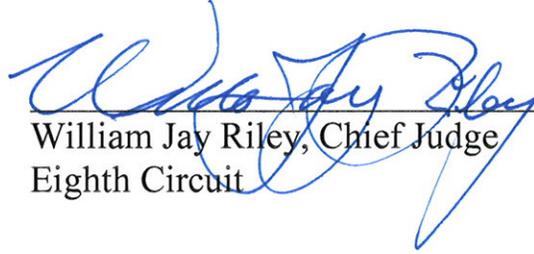
First, the judicial complaint procedure is limited to United States judges and does not apply either to other officials who work for or appear in the federal courts or to state officials. See 28 U.S.C. § 351(a), (d)(1); Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of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

Second, after careful review of the complaint, I find the complainant’s allegations against the district judge must be dismissed to the extent they address the complainant’s application for habeas relief, because the allegations directly relate to the merits of the judge’s decisions 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. If the decision or ruling is alleged to be the result of an improper motive, . . . the complaint is not cognizable to the extent that it attacks the merits.” J.C.U.S. Rule 3(h)(3)(A). As of this date, the district judge has not yet ruled on the complainant’s application for habeas relief. Once the district judge has ruled, any challenges to the merits of the judge’s ruling are properly made by direct appeal.

Third, the complainant’s remaining allegations of judicial misconduct “lack[] sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); see also J.C.U.S. Rule 11(c)(1)(D); E.C. Rule 4(c)(3).

The complaint is dismissed.

June 17, 2014



William Jay Riley, Chief Judge
Eighth Circuit