

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-14-90012

In re Complaint of Jane Doe¹

This is a judicial complaint filed on May 6, 2014, by a pro se civil litigant against the United States magistrate judge who presided over the complainant's civil case and issued orders adverse to the complainant. The judicial complaint asserts "judicial misconduct" by the magistrate judge, including (1) "egregious and hostile conduct which exceeds what is expected to be tolerated"; (2) "discriminatory conduct to ridicule and publicly lash out at a lawyer/litigant for a protected attribute (here being regarded as disabled)"; and (3) "[v]iolation of the [canons] as to competence, and treatment of persons before [the magistrate judge]." The complainant contends the magistrate judge "publicl[ly] revictimized" the complainant "for bringing a complaint" in the civil case. The complainant alleges the magistrate judge "put [the civil complaint] on the internet [and] publicly lashed out at [the complainant]," even though the magistrate judge "knew it was a confidential matter." The complainant states the magistrate judge shirked "a duty to be civil, non[-]discriminatory, not to be personally abusive, insulting, disparaging, and . . . humiliating." The complainant claims the magistrate judge did "not even know the basic rules [and] procedure" and did not "review the law" appropriately. Finally, the complainant describes many procedural and substantive mistakes allegedly made by the magistrate judge in complainant's case. Yet the complainant proposes, "This is not about seeking to change or effect [sic] a decision in the case. I have resolved the underlying dispute;

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.

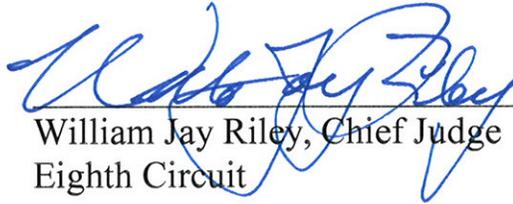
this is to see myself and others in similar situations are protected from such actions in the future.”

After careful review of the record, including all of the complainant’s exhibits with the memoranda and orders issued by the magistrate judge, I find no evidence of judicial misconduct or even unprofessional conduct by the magistrate judge.² While the complainant clearly disagrees with the magistrate judge’s reasoning and rulings, a judicial complaint is not the proper venue to challenge the merits of a judge’s substantive decisions. Most of the complainant’s allegations against the magistrate judge must be dismissed because they directly relate to the merits of the judge’s decisions and procedural rulings and are therefore not proper subjects of a judicial complaint. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (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, . . . or improper conduct in rendering a decision or ruling, such as personally derogatory remarks irrelevant to the issues, the complaint is not cognizable to the extent that it attacks the merits.” J.C.U.S. Rule 3(h)(3)(A). 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).

²The potentially offending comments I find are as follows: the complainant’s (1) pleadings are “rambling and repetitive”; (2) “motion [to revoke consent to a magistrate after an adverse ruling] has not been made in good faith”; (3) affidavit allegations “are both frivolous and conclusory”; and (4) claims are “vague and conclusory.” These evaluations are not unusual in judicial writing and do not reflect any judicial misconduct in this case.

The complaint is dismissed.

June 3, 2014



William Jay Riley, Chief Judge
Eighth Circuit