

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-14-90017

In re Complaint of John Doe¹

This is a judicial complaint filed on June 27, 2014, by an inmate against the United States district court judge who presided over the complainant's change of plea and sentencing hearings. The complainant alleges the district judge did not comply with various federal statutes and the Federal Rules of Criminal Procedure when he (1) overruled the complainant's motion for a downward departure before allowing the complainant's attorney to argue the motion at the sentencing hearing; (2) "refus[ed] to" consider the provisions of 18 U.S.C. § 3553(a) at the sentencing hearing; (3) "reacted . . . extremely defensively, indeed petulantly, and with braggadocio" to and "willfully refused to accept and consider" the complainant's filing of a "pre-sentencing submission incorporating motion for downward departure and memorandum supporting variance" written by the complainant personally and filed without the signature of the complainant's attorney; (4) "interjected religious beliefs into" the sentencing hearing; (5) "rel[ied] upon an allegedly false financial document that he had received from the prosecution and which had never been provided to the defendant"; and (6) "was well aware that he [the district judge] could" "violate statutory law, court rules, and case law" "and get away with it, thus thwarting appellate review" because of an appeal waiver in the complainant's plea agreement.

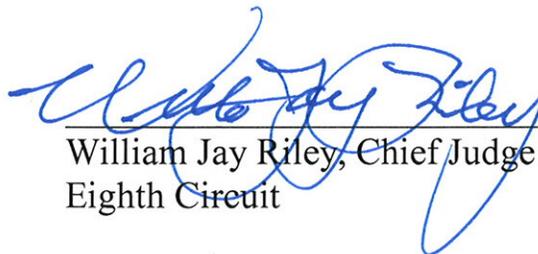
¹Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit (E.C.), the names of the complainant and the judge complained about are to remain confidential, except in special circumstances not present here.

After careful review, I find almost all of the complainant's allegations against the district judge must be dismissed because they 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); 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, . . . 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 are "frivolous," disingenuous, and "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)(C), (D); E.C. Rule 4(c)(3).

The complaint is dismissed.

August 26, 2014



William Jay Riley, Chief Judge
Eighth Circuit