

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-14-90018

In re Complaint of Jane Doe¹

This is a judicial complaint filed on July 10, 2014, by a pro se civil litigant against the United States district court judge who presided over the complainant's civil case and issued a judgment adverse to the complainant. The complainant filed two other judicial complaints, in 2011 and 2012, as to the same judge and the same civil case—both were dismissed. At the time of her previous complaints, the civil case was ongoing, but now, the civil case has concluded, and the complainant's direct appeal has been denied.

In this third judicial complaint, the complainant alleges the district judge “failed to follow the rules, policies and procedures of the courts, that resulted in the officers of the courts to include him, the clerks of the court and the opposing counsel to operate a kangaroo court.” The complainant contends the district judge “ignore[d] the evidence and information presented” in the civil case, and this failure “show[ed] bias and prejudice.” The complainant “many times asked that [the district judge] recuse himself, because [the complainant saw] the corruption and [the complainant's] due process rights continue to be violated when the rules of the law [were] being ignored.” For example, the complainant claims the district judge “deprive[d the complainant] of one or any of [the complainant's] rights as [the district judge] pick[ed] and chose what and how much evidence the [complainant] was able to file

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.

into this case.” The complainant explains, “The crime in this case was that species of fraud that defiles the court itself and was a fraud perpetrated by officers of the court so that the judicial machinery could not perform in the usual manner in its impartial task of adjudicating cases.”

First, the judicial complaint procedure is limited to United States judges and does not apply to other persons who 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 officers and clerks of the court, opposing counsel, and other non-judicial persons are not considered here.

Second, after careful review of the complaint, I find most 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); J.C.U.S. Rule 11(c)(1)(B); E.C. Rule 4(c)(2).

An allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse, 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).

As the complainant has been advised twice before, a judicial complaint is not the proper venue to challenge the merits of a judge’s substantive decisions. Such decisions must be challenged on appeal, which the complainant has already done.

Third, the complainant's remaining allegations of judicial misconduct are "frivolous" 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).

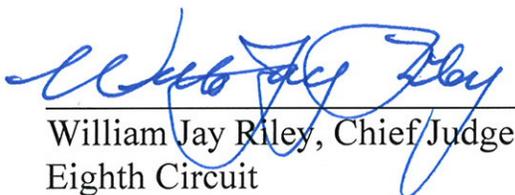
Because the complainant continues to file repetitive, frivolous, and merits-related judicial complaints regarding the same case and the same district judge, the complainant is hereby warned that abuse of the judicial complaint process will result in the imposition of conditions limiting continued access to the process:

If a complainant files frivolous, . . . or repetitive complaints, or otherwise abuses the complaint procedure, the judicial council's review panel (as established by Rule 8), upon the request of the chief judge of the circuit and after affording the complainant an opportunity to respond in writing, may restrict or impose conditions upon the complainant's use of the complaint procedure, including requiring the complainant to obtain prior permission of the chief judge of the circuit before filing another complaint.

E.C. Rule 1(f).

The complaint is dismissed.

October 15, 2014



William Jay Riley, Chief Judge
Eighth Circuit