

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-14-90020

In re Complaint of John Doe¹

These are two judicial complaints filed by a civil litigant, dated July 11 and July 15, 2014, respectively, against a United States magistrate judge who presided over a 1991 settlement conference in a civil case in which the complainant was the plaintiff.

These are now the fourth and fifth judicial complaints filed against the same magistrate judge regarding the same civil case. In 1996, in dismissing the complainant's first complaint, the Chief Judge of the Eighth Circuit wrote,

The gist of the complaint is that the magistrate judge improperly enforced the settlement agreement. Such a complaint relates directly to the merits of a decision or procedural ruling by the judge in a matter properly within his judicial duties. The complaint therefore falls outside the judicial-misconduct process as defined by statute.

The complainant petitioned the Judicial Council for reconsideration of the 1996 order. The Judicial Council denied the petition.

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 judicial officer complained against are to remain confidential, except in special circumstances not present here.

In 2004, the complainant changed the date on his 1996 complaint explanation to July 17, 2004, but otherwise submitted an identical judicial complaint. The 2004 Chief Judge reviewed the case and dismissed the complaint because it was “directly related to the merits of a decision or procedural ruling” and because “action on the complaint is no longer necessary because of intervening events.” The complainant petitioned the Judicial Council for review of the 2004 order. The Judicial Council denied the petition.

In 2013, the complainant submitted what he claimed to be new evidence with his third judicial complaint, but I discovered “no reason to modify the” 1996 and 2004 dismissals and found, “without any reservation, the conversation between complainant and his attorney provides no evidence of judicial misconduct by the magistrate judge.” In addition, I warned the complainant “that abuse of the judicial complaint process w[ould] result in the imposition of conditions limiting continued access to the process,” citing E.C. Rule 1(f). The complainant petitioned the Judicial Council for review of the 2013 order. The Judicial Council denied the petition.

Now in 2014, the complainant’s repetitive allegations relating to the 1991 settlement conference are still merits-related. See Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 3(h)(3)(A). Moreover, the complainant’s repetitive allegations are “frivolous [and] lacking 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. Rules 11(c)(1)(C), (D); E.C. Rule 4(c)(3).

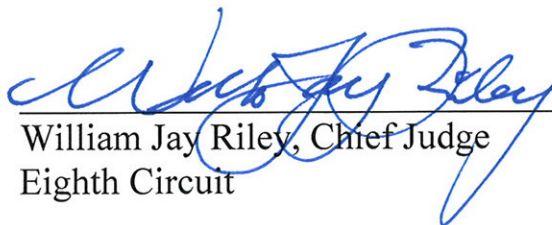
The complainant is a serial complainant. See JCP Nos. 08-14-90020, 08-13-90028, 04-036, and 96-013. All these complaints relate to the same aforementioned 1991 settlement conference. Judicial principles bar complainant from relitigating his allegations yet again in the two additional judicial complaints submitted here. Accord

28 U.S.C. § 352(c); see, e.g., In re Petition of Doe, 70 F.3d 56, 58 (8th Cir. 1995) (Hansen, J.) (“The complainant’s . . . argument was dismissed as frivolous in JCP No. 95-003, and that decision was affirmed by the . . . Judicial Council It cannot be raised here again.”).

The federal judiciary has expended far too much of its limited resources on the complainant’s disappointment with the results of the 1991 settlement conference. Because the complainant is abusing the judicial complaint procedure, I refer this complaint to the Judicial Council Review Panel to consider whether the complainant should be sanctioned as a repeat frivolous filer. See E.C. Rule 1(f) (permitting the Review Panel, “after affording the complainant an opportunity to respond in writing,” to “requir[e] the complainant to obtain prior permission of the chief judge of the circuit before filing another complaint”); see also Doe, 70 F.3d at 60-61 & n.1 (calling for E.C. Rule 1(f)).

The complaint is dismissed. The Clerk of Court is directed to send a copy of the instant judicial complaint and order to the Review Panel, as well as copies of the complainant’s other dismissed judicial complaints and related rulings by the respective chief judges. Complainant has thirty days from the filing of this order to file any response, which shall not exceed 1,000 words.

October 15, 2014



William Jay Riley, Chief Judge
Eighth Circuit