

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-14-90021

In re Complaint of John Doe¹

This is a judicial complaint effectively filed on July 22, 2014, by a pro se civil plaintiff against the United States district judge who issued orders adverse to the complainant. In the civil case, the district judge granted the defendants leave to file an amended answer, a counterclaim, and a third-party complaint. The district judge denied the complainant's motion to dismiss the counterclaim and third-party complaint. Citing an assortment of cases allegedly contrary to the district judge's decisions, the complainant contends the district judge showed a "lack of fairness and impartiality" by "deliberately or knowingly and arbitrarily disregard[ing] the legal standards" applicable to the complainant's case. The complainant supports this conclusion by arguing that in both orders, the district judge ignored and failed to distinguish controlling precedent, instead relying on irrelevant and non-controlling authorities. The complainant proposes:

When a trial judge conducts the judicial proceedings in such a manner that the judge disbelieves the defendant's case or thinks that the prosecution should prevail, then the judge can be accused of committing judicial misconduct.

The complainant also filed a motion to recuse/disqualify in the civil case pursuant to 28 U.S.C. § 455(a), claiming the district judge had a financial interest in

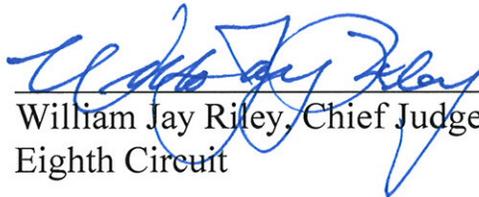
¹Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit, the names of the complainant and the judge complained about are to remain confidential, except in special circumstances not present here.

the parties and subject matter of the dispute. The district judge denied the motion. Again relying on 28 U.S.C. § 455(a), the complainant here raises the same contentions of financial interest and challenges the district judge's failure to recuse.

The complainant's arguments directly relate to the merits of the district judge's rulings in the complainant's case and its recusal decision 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, including a failure to recuse, without more, is merits-related. If the decision or ruling is alleged to be the result of 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). A district judge's disagreement with a party on the applicable law is not necessarily unfair or partial, without more. A timely appeal to the Eighth Circuit Court of Appeals, not a judicial complaint, is the correct avenue for the complainant to challenge the merits of these adverse rulings.

The complaint is dismissed.

October 15, 2014



William Jay Riley, Chief Judge
Eighth Circuit