

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-14-90022

In re Complaint of John Doe¹

This is a judicial complaint filed July 29, 2014, by a pro se civil litigant against the United States magistrate judge who, following a hearing, recommended that the district court dismiss complainant's claims. In that case, complainant claimed violations of the Fourteenth Amendment's Due Process clause during complainant's dissolution of marriage and third-party child custody cases in state court, and complainant requested that the federal district court vacate the state court orders in those cases. The defendants moved for dismissal, and complainant opposed the motion. The defendants then moved for sanctions under Fed. R. Civ. P. 11. Although the magistrate judge recommended dismissal, he separately denied the defendants' motion for sanctions.

The judicial conduct complaint first explains complainant's "dismay[]" toward the "demeanor of [the magistrate judge] during the hearing" on the motion to dismiss, but notes this fact "was not alarming." Complainant claims that during the hearing, the magistrate judge "demonstrated a hostile demeanor towards" complainant, "cross-examined" complainant about complainant's state court appeal, and "mocked [complainant's] answers" "[w]ith an angrily [sic] tone and discuss [sic] in his voice."

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.

Complainant next identifies three statements in the magistrate judge's recommendation and report, each of which complainant claims were either untrue, "extremely inflammatory to" complainant, or both. First, complainant reasons the magistrate judge "cite[d] the appeal from [a related state court matter] . . . to make a finding" on which to "justify [the magistrate judge's] recommendation." Second, complainant claims the magistrate judge incorrectly "accuse[d complainant] of alleging that the Defendants colluded with the state courts." Third, complainant contends the magistrate judge "belittl[ed complainant's] claims of mental and verbal abuse" where the magistrate judge quoted complainant's assertion of abuse as part of complainant's argument for jurisdiction.

Finally, complainant asserts notice was deficient on the defendants' motion for Rule 11 sanctions and the magistrate judge's law clerk had informed complainant the sanctions motion would not be at issue during the hearing on the defendants' motion to dismiss. Complainant argues that by summarily denying the motion for sanctions without holding a hearing and before receiving any argument in opposition, the magistrate judge allowed "the opposing parties and their council [sic]" to "evade the rules as they s[aw] fit."

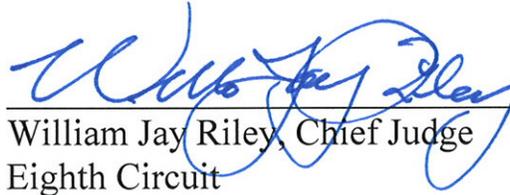
Complainant concludes these episodes evidence "impartiality and bias" and show the magistrate judge has "little regard for justice" or "empathy for others."

After careful review of the record, I conclude complainant's allegations are "frivolous" and lack "sufficient evidence to raise an inference that misconduct has occurred" within the Judicial Conduct Rules. 28 U.S.C. § 352(b)(1)(A)(iii); see Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(C), (D); E.C. Rule 4(c)(3). Additionally, some of complainant's claims must be dismissed because they are "directly related to the merits of a decision or procedural ruling." 28 U.S.C. § 352(b)(1)(A)(ii); see J.C.U.S. Rule 11(c)(1)(B); E.C. Rule 4(c)(2). Although allegations of judicial bias,

malice, prejudice, partiality, or other improper motive or conduct are not necessarily merits-related, such allegations must be dismissed as merits-related when, as here, the only support for the allegations is the merits of the judge's rulings. See J.C.U.S. Rule 3(h)(3)(A).

Because the complaint is devoid of evidence raising an inference of any judicial misconduct and many of the claims relate directly to the merits of complainant's lawsuit, the complaint is dismissed.

October 15, 2014



William Jay Riley, Chief Judge
Eighth Circuit