

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-14-90025

In re Complaint of Jane Doe¹

This is a judicial complaint filed on August 28, 2014, by a pro se civil litigant against the United States district judge who dismissed complainant's civil rights case. In the civil rights action, complainant alleged state law claims as well as violations of complainant's Fourth, Fifth, and Fourteenth Amendment rights. In multiple orders, the district judge dismissed all of complainant's claims under Fed. R. Civ. P. 12(b)(6) and 12(c). On appeal, the United States Court of Appeals for the Eighth Circuit affirmed all of the district judge's dismissals except the court, over a dissent, reversed the dismissal of complainant's Fourth Amendment claim, finding the facts pled could, if proven, establish a violation. On remand, the district judge scheduled discovery and pretrial deadlines, and issued discovery orders. Over the course of these events, the district judge denied complainant's multiple motions to recuse. Ultimately, the district judge dismissed complainant's Fourth Amendment claims, with prejudice, under Fed. R. Civ. P. 37 as a sanction for failing to comply with the district court's discovery orders, and complainant has appealed this dismissal to the Eighth Circuit.

This judicial complaint begins with the charge, "This judge has biases and prejudices against me for reasons unknown and undisclosed to me." Complainant then alleges the district judge "mishandled" an otherwise "simple Civil Rights Violations case" by failing to recuse and by dismissing complainant's case despite

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.

“the 8th Circuit[’s] determin[ation] that all []named Defendants did in fact[] violate . . . [complainant’s] 4th Amendment Civil Rights.” Using a questionnaire complainant claims the district judge completed for the judge’s judicial confirmation process, complainant (1) suggests the district judge’s purported adherence to a certain religion prejudiced the judge against complainant, who practices a different religion; (2) complains the district judge did not protect complainant from civil rights violations; and (3) permitted the defendants’ male attorneys to “operate a ‘tag-team’ against” complainant (a female), thereby violating her “Women’s Rights.” Finally, complainant alleges the district judge had “personal affiliations” with state officers and judges, which, complainant seems to suggest, may have influenced and prejudiced the district judge against complainant.

Most of complainant’s allegations must be dismissed, because they directly relate to the merits of the judge’s decisions or procedural rulings 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); 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). Complainant’s existing appeal to the Eighth Circuit, not the judicial complaint process, is the appropriate venue for challenging the merits of the district judge’s dismissal and decisions not to recuse.²

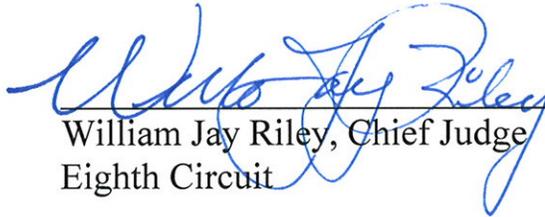
The complainant’s remaining allegations of judicial misconduct are “frivolous” and “lack[] sufficient evidence to raise an inference that misconduct has occurred.”

²The Eighth Circuit’s opinion in the first appeal concluded the district judge “did not abuse [the judge’s] discretion in refusing to recuse.”

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.

November 3, 2014



William Jay Riley, Chief Judge
Eighth Circuit