

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-14-90032

In re Complaint of John Doe¹

This is a judicial complaint filed on October 30, 2014 by an inmate and pro se civil litigant against the United States district court judge who issued an order adverse to complainant. In the civil suit, complainant filed an application to proceed *in forma pauperis*, and the magistrate judge concluded the application was incomplete and ordered complainant to either file a properly completed prison calculation sheet or pay the \$400 filing fee within thirty days. Complainant's only allegation of misconduct is that within thirty days, he "filed a supplement sheet (calculation sheet) to proceed *in forma pauperis*, which was filed under the wrong docket . . . number, causing Complainant's case to be dismissed without prejudice" by the district judge.

To the extent complainant alleges a failure in the clerk's office to file his calculation sheet properly, such allegations are outside the judicial complaint procedure, which is limited to actions by a judge and does not apply to other court staff. 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).

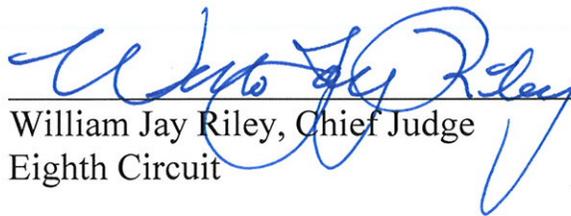
To the extent complainant challenges the district judge's dismissal, this allegation must be dismissed as directly related to the merits of the judge's

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.

decision—an improper subject for the judicial complaint process. 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, . . . without more, is merits-related.” J.C.U.S. Rule 3(h)(3)(A). To obtain review of this dismissal decision, complainant would need to request, in a timely fashion, consideration by the district court itself or to file a timely appeal of the issue with the United States Court of Appeals for the Eighth Circuit.

The complaint is dismissed.

December 1, 2014



William Jay Riley, Chief Judge
Eighth Circuit