

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-14-90034

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In re Complaint of John Doe<sup>1</sup>

This is a judicial complaint filed on November 21, 2014, by an inmate and pro se civil litigant against the United States district court judge who presided over and dismissed complainant's 42 U.S.C. § 1983 case. In his judicial complaint, complainant alleges improprieties by the judge as well as prison officials and the district court clerk. Complainant alleges the judge's "dismissal of the 1983 civil complaint, showed a[] lack of humanity" and was "totally a[] derelict of judicial duty and intentional judicial misconduct and failure to protect [complainant] from physical harm, future physical harm, and an intentional denial of [complainant's] civil and constitutional rights." Complainant claims the judge "refused to allow [him] access to the court[]" and "failed to carry out his judicial duty" by improperly applying the court's local rules. Complainant contends the judge "made [complainant] complete six amended civil complaints" before "turn[ing] around an[d] dismiss[ing] this civil complaint, on intentional erroneous local court rules." According to complainant, "the type of intentional dismissal of this 1983 civil complaint by [the judge] shows bias, favoritism, and judicial misconduct."

In a supplemental document filed on December 31, 2014, complainant also alleges the judge intentionally denied him "access to the court" when the judge "straight out refuse[d] to accept [complainant's] Rule 60(b) motion." According to

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<sup>1</sup>Under 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.

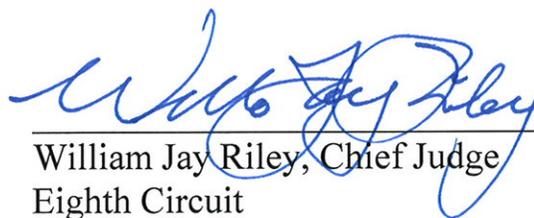
the document and an attached “exhibit,” the clerk returned the motion because the judge had previously ordered the clerk not to accept any additional documents or motions in the case.

To the extent complainant alleges impropriety by someone other than the judge—i.e., the district court clerk and the prison officials—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).

As for complainant’s allegations against the judge, such allegations all are directly related to the merits of complainant’s case and must therefore be dismissed. 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).

The complaint is dismissed.

January 28, 2015

  
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William Jay Riley, Chief Judge  
Eighth Circuit