

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-14-90035

In re Complaint of John Doe¹

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 issued an order adverse to complainant. Although this is a *judicial* complaint, complainant makes numerous claims against many non-judges. For example, he alleges “newly discovered evidence” was kept from him by detectives, prosecutors, public defenders, and witnesses; he was arrested without a warrant; his appellate counsel in a state case intentionally filed an appellate brief late; many individuals conspired against him to “secure [his] state conviction”; and prison officials assisted in the theft of his legal documents and identity.

Because these and many other of complainant’s claims appear to assert only misconduct by someone other than the judge who is the subject of this opinion, the bulk of the complaint must be dismissed. The judicial complaint process is limited to actions by a judge and does not apply to other court staff, prison officials, public defenders, prosecutors, or witnesses. 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).

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.

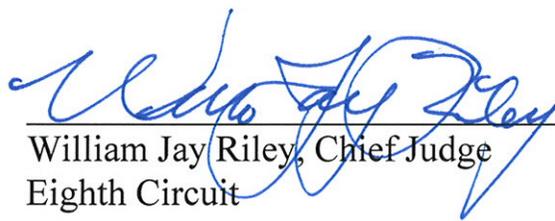
To the extent these contentions are meant to target the judge's failure to afford complainant relief for these alleged injustices, such claims would relate directly to the merits of the judge's rulings and would therefore also require dismissal. See 28 U.S.C. § 352(b)(1)(A)(ii); J.C.U.S. Rule 11(c)(1)(B); E.C. Rule 4(c)(2).

In his complaint and in a supplementing document filed on December 31, 2014, complainant explicitly targets a few alleged actions by the judge himself. First, complainant claims the judge "failed to address complainant[']s imminent danger issue of" being assaulted by prison guards. Second, he contends the judge (and another judge) has "shown intentional judicial misconduct[] to deny [complainant] access to habeas corpus petition and 1983 civil complaint for the last 17 years" and has "conspir[ed] hereto with state officials and prison officials shown by way of [complainant] being denied access to" the evidence that had been supposedly hidden from him. Third, complainant avers the judge "denied [complainant] access to the court" with an "intentional erroneous ruling" that "just straight out refused to accept [complainant's] Rule 60(b) motion." He contends the judge committed "straight intentional misconduct and intentional denial of access to the court" when the judge "informed the clerk not to accept any of complainant[']s filing[s]."

These claims and contentions also directly relate 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. 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).

The complaint is dismissed.

January 28, 2015



William Jay Riley, Chief Judge
Eighth Circuit