

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-15-90001

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

This is a judicial complaint filed on January 5, 2015, by a pro se civil litigant against the United States district judge who presided over complainant's 28 U.S.C. § 1983 case. In that case, the jury found in the defendants' favor and against complainant. Still proceeding pro se, complainant appealed this result to the United States Court of Appeals for the Eighth Circuit, which affirmed the judgment against him.

According to complainant, one of his juror's said complainant "should Burn in Hell." Complainant inquires whether the district judge "[s]hould . . . know . . . Canon Laws" and "remove the Jury" which, because of the one juror's statement, had become "polluted or tainted with irreversible information." Complainant contends the juror's statement is "a matter of Jury Misconduct" deserving "a new Jury and Case." Complainant also claims the law should not permit "the Jury Separate [sic] without having a Bailiff present to prevent Misconduct and talking about the case before all Parties have a chance to state their side."

I find complainant's allegations against the district judge must be dismissed because they directly relate to the merits of the judge's decisions and are therefore not proper subjects of a judicial complaint. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-

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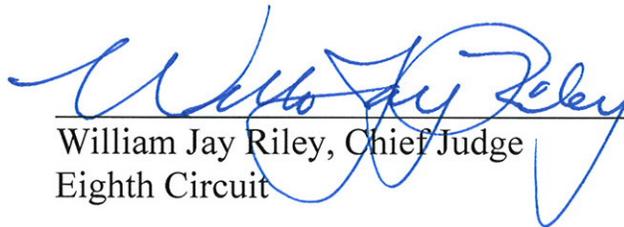
<sup>1</sup>Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit (E.C.), the names of the complainant and the judge complained about are to remain confidential, except in special circumstances not present here.

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, . . . 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 appeal to the Eighth Circuit—not the judicial complaint process—was the forum in which to raise the issues complained of here.

To the extent complainant raises claims that are not merits-related, the complaint must still be dismissed as “lacking sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); see also J.C.U.S. Rule 11(c)(1)(D); E.C. Rule 4(c)(3).

The complaint is dismissed.

February 3, 2015

  
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William Jay Riley, Chief Judge  
Eighth Circuit