

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-15-90014

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

This is a judicial complaint filed on June 22, 2015, by a state inmate against the United States district judge who presided over complainant's pro se 42 U.S.C. § 1983 action. Complainant alleges the district judge, who had previously worked for the state's Attorney General's office, which provided defense counsel in complainant's case, incorrectly ruled on a number of motions, including multiple motions for recusal. Complainant claims the district judge was biased against him. Specifically, complainant contends the district judge "simply will not rule in favor of a prisoner and will 'rubber stamp' approve the Attorney General's responses no matter how ridiculous or transmogrified" and further asserts the district judge "made rulings in [complainant's] case in cavalier disregard of the law/rules governing [complainant's] issues." Complainant proposes the district judge "conspired with or [was] influenced by [the defendants and defense counsel] to deny [complainant's] constitutional rights because of [complainant's] Theopolitical views." Because of this perceived "Theopolitical bias," complainant states the district judge "should be recused and not be allowed to hear any of [complainant's] cases."

The complaint must be dismissed because it is "directly related to the merits of" the judge's decision. 28 U.S.C. § 352(b)(1)(A)(ii); see also Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States

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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.

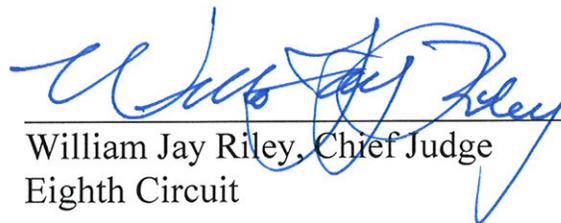
(J.C.U.S.) Rule 11(c)(1)(B); E.C. Rule 4(c)(2). “An allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse, without more, is merits-related.” J.C.U.S. Rule 3(h)(3)(A). The allegations that the district judge’s legal rulings were incorrect and made “in cavalier disregard of the law/rules” can only be raised in a direct appeal. The judicial “complaint procedures may not be used to have a judge disqualified from sitting on a particular case.” E.C. Rule 1(e).

Complainant correctly identifies that allegations of bias, partiality, and collusion with opposing parties and counsel are not necessarily merits-related. Even so, such allegations must be dismissed as merits-related when, as in this case, the only support for the allegations is the merits of the judge’s rulings. See J.C.U.S. Rule 3(h)(3)(A). Although complainant notes that the district judge was once employed by the state’s Attorney General’s office, which now represents defendants in complainant’s case, that employment was over twenty years before complainant’s case and under a different Attorney General. The mere fact of this distant employment is not sufficient to support complainant’s allegation of bias.

Complainant’s unsupported allegations of bias, partiality, and collusion with defendants and their counsel are dismissed as “frivolous [and] 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)(C), (D); E.C. Rule 4(c)(3).

The complaint is dismissed.

July 16, 2015

  
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William Jay Riley, Chief Judge  
Eighth Circuit