

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-15-90023

In re Complaint of Jane Doe¹

This is a judicial complaint filed on August 6, 2015, by a pro se civil litigant against the United States district judge who is presiding over complainant's employment-discrimination case. Complainant states she is "convinced [she] will not receive a fair and impartial hearing before" the district judge. Listing seventeen points of "specific prejudicial conduct exhibited by [the district judge] towards" complainant, complainant generally alleges the district judge demonstrated preferential treatment to defense counsel regarding scheduling and resolving discovery disputes.

More specifically, complainant alleges the district judge (1) granted a defense scheduling motion without penalty or proof "despite [such] demands placed on [complainant]"; (2) told complainant her case might be dismissed "if discovery dates were not met," but did not restrict or threaten defense counsel for failing to meet all deadlines; (3) denied complainant's motion without "proper notification"; (4) "interrogated [complainant], shouted at [her], and threatened to dismiss [her] case if [she] did not immediately provide sensitive and confidential information" about her flights and business contacts to support her stated reason for failing to comply with the district judge's discovery order; (5) "questioned the integrity of [complainant's] company" and "falsely accused [complainant] of lying about her" business travel;

¹Under Rule 4(f)(1) of the Eighth Circuit Rules Governing Complaints of Judicial Misconduct and Disability, the names of the complainant and the judicial officer complained against are to remain confidential, except in special circumstances not present here.

(6) “provided in the Court’s order that an extension for discovery [complainant requested] [wa]s based, ‘on the condition that she (plaintiff) pays all reasonable attorney fees incurred by Defendant to enforce discovery’”; (7) “disputed [complainant’s] statement, without considering” or weighing complainant’s explanatory evidence; (8) “does not allow [complainant] reasonable time to verbally present argument” without constant and rude interruptions while defense “counsel is allowed a reasonable time” and is asked for suggestions; (9) “shouted at [complainant] with an unequivocal ‘No.’” and “ordered her to ‘Stop talking!’ after initially giving [her] permission to speak, thus denying [complainant] her constitutional rights to defend herself”; and (10) warned complainant she could be held in contempt if she did not listen to the district judge.

Upon careful review of complainant’s detailed allegations, the exhibits she attached to her complaint, and the district court docket in complainant’s case, I have determined most of complainant’s misconduct allegations must be dismissed because they directly relate to the merits of the district judge’s decisions and procedural rulings and are therefore not proper subjects of a judicial complaint. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(B). “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, such as personally derogatory remarks irrelevant to the issues, the complaint is not cognizable to the extent that it attacks the merits.” J.C.U.S. Rule 3(h)(3)(A).

The judge’s alleged shouting, rude interruptions, abruptness, and stern language are, as a matter of law, not the sort of “deep-seated and unequivocal antagonism that” may constitute misconduct. Liteky v. United States, 510 U.S. 540, 556 (1994). “[E]xpressions of impatience, dissatisfaction, annoyance, and even anger, that are within the bounds of what imperfect men and women, even after

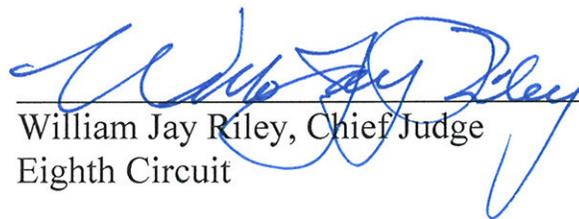
having been confirmed as federal judges, sometimes display” do not establish bias or partiality. Id. at 555-56.

Complainant’s allegation that “[t]here is an extreme delay in [the district judge’s] responses to [complainant’s] requests” must also be dismissed as merits-related. Any alleged “delay in rendering a decision or ruling” in a particular case is not “conduct prejudicial to the effective and expeditious administration of the business of the courts” within the meaning of 28 U.S.C. § 351(a). See J.C.U.S. Rule 3(h)(3)(B).

Complainant’s remaining allegations 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. Rules 11(c)(1)(C), (D).

The complaint is dismissed.

September 28, 2015



William Jay Riley, Chief Judge
Eighth Circuit