

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-15-90030

In re Complaint of John Doe¹

This is a judicial complaint filed on August 25, 2015, by a pro se civil litigant against the United States magistrate judge assigned to complainant's 42 U.S.C. § 1983 civil-rights case. Attached to the complaint are five exhibits, including complainant's second amended complaint, a letter in support of his motion to amend, and an original and amended order from the magistrate judge rejecting complainant's proposed amendments as futile.

Complainant avers the magistrate judge "denied [his] Motion to Amend by fraudulently stating [complainant's] draft amended complaint included 'charges' that were prohibited by the statute of limitations [and] were never included in Complainant's pleadings but were apparently 'inserted' by the Court after the Court 'extracted' these charges from Complainant's 7/27/15 letter" in support of his motion to amend. Complainant complains the magistrate judge's "7/29/2015 order (exhibit 3) denied Complainant's motion based upon the Court's own 'amending of Complainant's pleading and never addressed Complainant[']s request to 'amend' by simply adding defendants."

Complainant states he "filed a Request to File a Motion for Reconsideration (exhibit 4) in response to the Court's demonstrably egregious and discriminatory

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

denial of Complainant's Motion to Amend," but the magistrate judge again failed to respond to complainant's request, instead issuing an amended "order . . . (again) based upon the Court's self 'amending' of Complainant's pleading." Without elaboration, complainant "asserts that this Court's Magistrate has been 'disabled' from competently serving as a U.S[.] District Court Federal Magistrate Judge."

Complainant's allegations do not sufficiently allege an actionable instance of judicial misconduct or disability and must be dismissed as "directly related to the merits of a decision or procedural ruling." 28 U.S.C. § 352(b)(1)(A)(ii); see 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." J.C.U.S. Rule 3(h)(3)(A). A judicial complaint is not the proper means by which to challenge the magistrate judge's rulings. If complainant is dissatisfied with the result of the district court proceedings, complainant may file a direct appeal at the appropriate time.

Although allegations of discrimination, fraud, or other improper motive or conduct are not necessarily merits-related, 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). Complainant's allegations of discrimination and disability are also "frivolous [and] lacking sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii); see J.C.U.S. Rule 11(c)(1)(C), (D).

The complaint is dismissed.

September 28, 2015



William Jay Riley, Chief Judge
Eighth Circuit