

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-15-90031

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

This is a judicial complaint, filed on September 1, 2015, by a state prisoner and pro se litigant against the United States district judge who dismissed complainant's petition for a writ of habeas corpus.<sup>2</sup> The district judge also denied complainant's motion to recuse, which charged the district judge with obstruction of justice and bias for failing to issue the writ despite complainant's purported evidence of a state court conspiracy to violate his constitutional rights. On June 26, 2015, the Eighth Circuit Court of Appeals dismissed complainant's appeal for lack of jurisdiction.

Complainant, "a black man[,] claim[s] and assert[s] that white State and Federal officials have conspired to deprive [him] of [his] 5th Amendment Right to due process, protected by [his] 14th Amendment Right to equal protect[ion] of United

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

<sup>2</sup>The complaint also names the magistrate judge assigned to complainant's case with a notation acknowledging the magistrate judge has retired. Because the judicial-complaint procedure is limited to United States judges only, i.e., judges in service, 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), I have not considered complainant's allegations of misconduct by the magistrate judge. Nor have I considered any misconduct allegations against any state officials or private attorneys.

States laws.” In support of his complaint, complainant attached thirteen marked exhibits, including two state court indictments, two judgments, several state statutes and cases, part of complainant’s sentencing transcript, and complainant’s department of corrections grievance response to his complaint about the denial of access to the law library.

Citing those exhibits, complainant charges the district judge “with racial bias, obstruction of justice and misprison [sic] of felony by [him] using [his] office and power to participate in a conspiracy of racial discrimination involving” various state officials and private attorneys to obtain two unlawful state convictions against complainant as a persistent offender and impose illegal sentences on him “in violation of [complainant’s] 5th Amendment Right to due process, protected by [his] 14th Amendment Right to equal protection of the United States laws within the jurisdiction of the United States District Court . . . in violation of 18 U.S.C. § 242.”

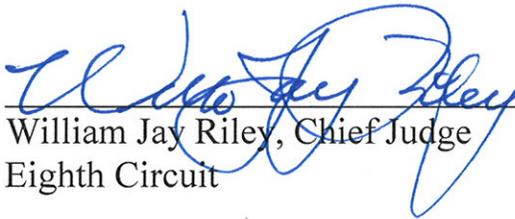
According to complainant, the district judge violated his constitutional rights “[f]or the sole purpose of covering up of [sic] a felony crime of kidnapping [sic] by [the governor].” After thoroughly recounting the details of the habeas arguments and objections complainant presented to the district judge, complainant asserts the district judge “knowingly and willfully under color of law denied him equal protection of the laws when he dismissed” the state as a party in his habeas case after complainant “asserted a conspiracy involving State judges and private attorneys[] to deprive him of his civil rights.”

After careful review, complainant’s allegations against the district judge 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 J.C.U.S. Rule 11(c)(1)(B). “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). Although allegations of conspiracy, racial bias, discrimination, obstruction of justice, or any 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 underlying allegations is the merits of the judge's rulings. See J.C.U.S. Rule 3(h)(3)(A). Complainant's allegations 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.

October 2, 2015

  
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William Jay Riley, Chief Judge  
Eighth Circuit