

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP Nos. 08-15-90044/08-15-90045

In re Complaints of Jane Doe 1 and Jane Doe 2¹

These are consolidated judicial complaints filed on October 13 and 19, 2015, by nonparty private citizens against the district court judge who presided over a federal criminal case. The defendant in that case pled guilty and the judge sentenced him to 10 years in prison. The two complaints are virtually identical.

The complainants allege the judge “exhibit[ed] bias” and disadvantaged the defendant by “being one sided.” They suggest the judge was exposed to inadmissible evidence and information that overcame his impartiality and caused him to harbor undue prejudice against the defendant. They also assert that the outcome of the case was “a miscarriage of justice and manifest injustice” because no DNA evidence linked the defendant to the crime he admitted committing. And they each list definitions of “Official Misconduct,” “Malfeasance,” “Misfeasance,” and “Nonfeasance.”

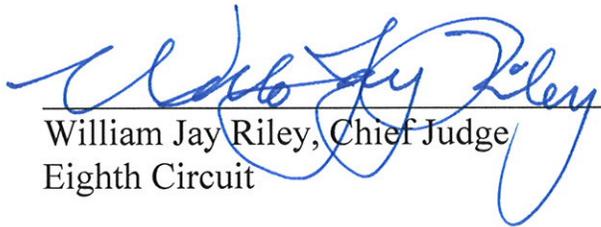
The complaints must be dismissed. Most of the complainants’ allegations are not cognizable—that is, not the sort of matter that can be addressed in a judicial-conduct proceeding—because they are “directly related to the merits of [the judge’s] decision.” 28 U.S.C. § 352(b)(1)(A)(ii); accord Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule

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

11(c)(1)(B). Although allegations of bias and other improper motives are not necessarily merits-related, they are not cognizable when, as in this case, the only support for the allegations is the merits of the judge's ruling. See J.C.U.S. Rule 3(h)(3)(A). And even if the listed definitions of different kinds of misconduct are construed as separate allegations, not related to the merits, they are vague, conclusory, "frivolous," and "lack[] sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii); accord J.C.U.S. Rule 11(c)(1)(C), (D).

The complaints are dismissed.

December 7, 2015



William Jay Riley, Chief Judge
Eighth Circuit