

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-15-90048

In re Complaint of John Doe¹

This is a judicial complaint filed on October 28, 2015, against a district judge. The complainant pled guilty to mail fraud and making a false statement. The district judge convicted and sentenced him and later revoked his probation. The complainant alleges the district judge colluded with prosecutors to add a charge for bank fraud—with which the complainant was not charged and to which he did not plead guilty—to the judgment against him. They allegedly corrected the judgment two weeks later, but not before “sealing the illegally added charge as part of [the complainant’s] permanent record.”

According to the complainant, the district judge is part of a conspiracy involving fraud by employees of a government agency and a real-estate company in connection with a construction loan. The district judge allegedly tried to cover up the real crimes by manipulating the complainant’s judgment to make it look like the complainant and his co-defendants were themselves involved in an illegal conspiracy.

The complainant finds additional support for his theory in the fact that his judgment initially indicated he shared responsibility for paying restitution with one of his co-defendants—who was convicted of bank fraud—even though the co-defendant was not actually required to pay restitution. That mistake was also

¹Under 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 judge complained about are to remain confidential, except in special circumstances not present here.

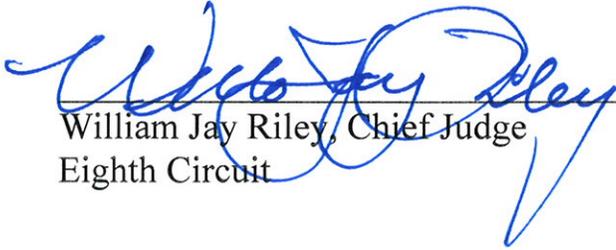
eventually corrected. But the complainant accuses the district judge of “intentionally check[ing] the wrong box” on the amended judgment form—apparently referring to the district judge indicating the reason for the amendment was “Correction of Sentence by Sentencing Court” rather than “Correction of Sentence for Clerical Mistake”—“to give the impression that [the complainant] needed legal representation to the remove [sic] the false information.” To the contrary, according to the complainant, he noticed and raised the error on his own and his attorney “did nothing” to prompt the correction.

Insofar as the complainant attacks the contents of the judgment against him and the district judge’s amendments to it, his complaint is “directly related to the merits of [the district judge’s] decision[s] [and] procedural ruling[s]” and, therefore, must be dismissed. 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 11(c)(1)(B). On the other hand, the complainant’s assertion that the district judge acted with improper motives—“exonerat[ing] [himself] of [his] own crimes” and “doing a favor for” his confederates—does not necessarily go to the merits. See J.C.U.S. Rule 3(h)(3)(A). But the complainant’s allegations of a criminal plot and cover-up tying together the events in his case are “frivolous” and “lacking sufficient evidence to raise an inference that misconduct has occurred,” so the remainder of the complaint must also be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); accord J.C.U.S. Rule 11(c)(1)(C), (D).

Finally, in light of the complainant’s suggestions of misconduct by prosecutors, probation officers, his first court-appointed attorney, and employees of the U.S. Department of Justice and another federal agency, I note that the judicial-complaint process is limited to United States judges and does not apply to other people who work or interact with the federal courts and the criminal-justice system. See 28 U.S.C. § 351(a), (d)(1); J.C.U.S. Rule 4; E.C. Rule 1(c).

The complaint is dismissed.

February 19, 2016



William Jay Riley, Chief Judge
Eighth Circuit