

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP Nos. 08-15-90051/08-15-90052/08-15-90053/08-15-90054

In re Complaint of John Doe¹

These are judicial complaints filed on November 16, 2015, by a federal prisoner whose fifth motion attacking his sentence under 28 U.S.C. § 2255 was dismissed because it was successive and not authorized by the Court of Appeals. See 28 U.S.C. § 2255(h). One complaint, JCP No. 08-15-90054, is about the district court judge who dismissed the complainant's motion. The other complaints, JCP Nos. 08-15-90051, 08-15-90052, and 08-15-90053, are about the three circuit judges who comprised the panel that denied the complainant's subsequent request for permission to file his motion.

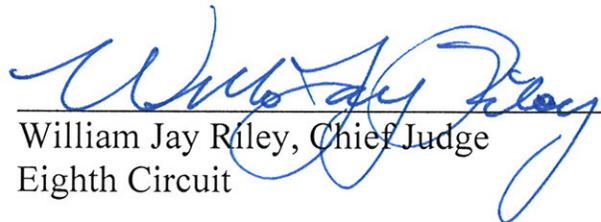
Pointing to a resolution of the American Bar Association and an announced policy change by the U.S. Department of Justice, both relating to the enforcement of plea agreements waiving certain claims of ineffective assistance of counsel, the complainant alleges he has raised new facts relating to his conviction and the district judge abused her discretion and "circumvent[ed]" his rights by dismissing his motion. Based on the same purported new facts, the complainant also alleges the circuit judges similarly abused their discretion and "circumvented" his rights by denying his request for permission without an explanation. And he accuses all four judges of "enforcing a sentencing agreement contract that is tainted by fraud" and "upholding to fraud [sic]," "[w]hich could lead to a miscarriage of justice."

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

The complaints are “directly related to the merits of [the judges’] decision[s] or procedural ruling[s]” and so 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 Rule 11(c)(1)(B). A judicial complaint is not the place to argue the complainant was entitled to the relief he sought or that the judges should have ruled in his favor. See E.C. Rule 1(e). Such arguments generally belong in a timely motion to the judge or an appeal.

The complaints are dismissed.

December 29, 2015



William Jay Riley, Chief Judge
Eighth Circuit