

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-15-90056

In re Complaint of John Doe¹

This is a judicial complaint filed on November 24, 2015, by a state prisoner against a federal magistrate judge. The complainant's petition for a writ of habeas corpus was denied and dismissed without prejudice because he failed to exhaust the avenues for relief available within the state court system. His motion for reconsideration was also denied. Although the complainant's case had been assigned to the magistrate judge, the orders denying the complainant's filings both purport to be issued by a district court judge. In the order denying the complainant's motion for reconsideration, the district judge noted she reviewed and signed the order because the parties had not all consented to the magistrate judge exercising authority over the case, so the magistrate judge could not dismiss it.

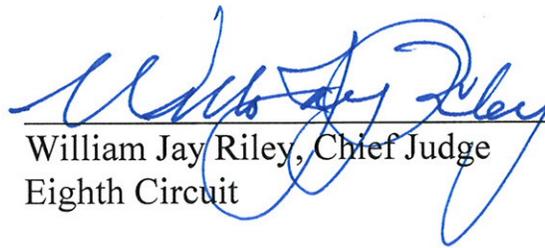
Citing that order, the complainant now asserts the magistrate judge "lacked legal authority, jurisdiction, law, or [sic] to dismiss" his case. I first note that the complainant's conclusory assertion appears frivolous in the absence of any evidence the complainant's case was in fact dismissed by the magistrate judge, rather than the district judge who signed the orders (and, indeed, expressly explained why she and not the magistrate judge did so). See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(C), (D). In any event, the complainant's challenge is not the

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

sort that can be raised in a judicial complaint, because it is “directly related to the merits of a decision.” 28 U.S.C. § 352(b)(1)(A)(ii); accord J.C.U.S. Rule 11(c)(1)(B). The judicial-complaint procedure is not another chance for the complainant to appeal the denial of his habeas petition. See E.C. Rule 1(e).

The complaint is dismissed.

January 13, 2016



William Jay Riley, Chief Judge
Eighth Circuit