

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP Nos. 08-16-90004/08-16-90006

In re Complaints of John Doe and Jane Doe¹

These are judicial complaints filed on January 11 and 14, 2016, against the district judge presiding over a civil case in which one of the complainants twice unsuccessfully tried to intervene. On an emergency motion by parties in the case, the district judge ordered one complainant to dismiss a lawsuit he filed in state court, and ordered the complainants to release related claims they each filed with a county recorder of deeds and otherwise stop pursuing legal actions the district judge found to interfere with the district court's disposition of receivership property under its jurisdiction.

The complainants accuse the district judge of “[t]reating [them] in a demonstrably egregious and hostile manner,” because the district judge gave them only a short time to prepare their responses to the emergency motion. One complainant also takes issue with the district judge's failure to make the parties respond to his request for more time and a hearing. Complainant adds that he “was informed that the Judge would not guarantee [he] would not be held in contempt if [he] did not comply with the order.”

The other complainant focuses on the fact that parties to the case asked for the district judge's order and ultimately obtained the dismissal of a “claim of interest” in

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

property the complainant had filed, even though “[a]t no time has any party in th[e] case challenged the basis for [her] claim of interest and [the district judge] has not made any decision based upon the facts surrounding [her] claim of interest.” She accuses the district judge of “refus[ing] to afford any party the opportunity to be heard if it conflicted with [an alleged fraudulent] scheme designed by the US Attorney” and of “den[ying] [her] and other interested parties access to the Courts, due process, and equal protection of the law.” The complainant also declares “[t]he Order by [the district judge] and the actions of the U.S. Attorney . . . constitute theft of [her] property.”

Both complainants also claim the district judge’s “**order directs [them] to aid in a conspiracy to commit a crime,**” namely “[c]onspiracy to defraud the United States of America.” The complainants suggest dropping their legal challenges would help “cover up” such fraud. And complainants allege the district judge “by her demeanor” showed “bias and prejudice” against “a pro se litigant” and “against any person or party that opposed the actions of the US Attorney,” as well as “retaliation against a whistle blower.”

The complainants refer to no specific instances of hostility or other impropriety in the district judge’s treatment of them, and the district court docket contains no record of any hearing in which the complainants participated, where they might have observed the district judge’s “demeanor” toward them. See 28 U.S.C. § 352(b)(1)(A)(iii) (calling for dismissal of complaints “lacking sufficient evidence to raise an inference that misconduct has occurred”); Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(D). The complainants’ allegations appear to be based entirely on the district judge’s order. I have reviewed the order and find the district judge’s references to the complainants are all directly relevant to the case, see J.C.U.S. Rule 3 cmt. (concerning allegations based on language in a judge’s ruling), and the tone and content of the order are entirely informative and professional, with nothing in the

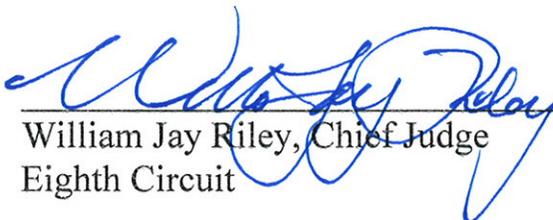
district judge's language even suggesting an improper motive for her decision. Because the complainants' allegations of bias and prejudice are supported by nothing other than the merits of the district judge's ruling, they are not properly raised in a judicial complaint. See 28 U.S.C. § 352(b)(1)(A)(ii); J.C.U.S. Rules 3(h)(3)(A), 11(c)(1)(B).

The complainants' remaining allegations against the district judge—that the order required them to choose between doing something they think is illegal or facing contempt liability and constituted theft—are likewise “directly related to the merits of [the district judge's] decision” and are subject to dismissal. 28 U.S.C. § 352(b)(1)(A)(ii); accord J.C.U.S. Rule 11(c)(1)(B). The complainants' conclusory suggestions that the district judge should have addressed the district court's subject-matter jurisdiction also must be dismissed for the same reason.

Because the complainants also refer to alleged misconduct by others, including federal and state government attorneys and employees, I add that judicial-conduct proceedings are limited to United States judges. See 28 U.S.C. § 351(a), (d)(1); J.C.U.S. Rule 4; E.C. Rule 1(c). Allegations about other people are not properly raised in a judicial complaint.

The complaints are dismissed.

February 24, 2016



William Jay Riley, Chief Judge
Eighth Circuit