

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-16-90008

In re Complaint of John Doe¹

This is a judicial complaint filed on January 20, 2016, by a pro se civil litigant against a magistrate judge. The magistrate judge recommended dismissing the complainant’s civil rights lawsuit without prejudice if the complainant did not amend his pleading to contain “a short and plain statement of [his] claim,” as required by Federal Rule of Civil Procedure 8. Believing the magistrate judge’s stated reasoning “thin,” “[t]he complainant did what any plaintiff or litigant would do under the circumstances”—he “start[ed] doing research on the magistrate and on the other litigants (defendants) involved in the lawsuit to find the link between any of them.”

The complainant allegedly discovered that a subset of the defendants in his case—government attorneys in the state where the magistrate judge sits—graduated from the same law school as the magistrate judge. Based on that connection, and the complainant’s experience “attend[ing] college where the school spirit goes pretty far and the alumni protects eachother [sic] to extremes,” the complainant declares “it is perfectly reasonable that the judge used her position to further the objectives of her pals over at [the law school] who this magistrate works with on a day to day basis as a trustee and whose identification connects all these defendants in one way or another to this matter.” The complainant also repeats his accusation—first raised in his

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.

response to the magistrate judge's order—that the magistrate judge “had inappropriate contact with some or all of the defendants.”

The only basis for the complainant's allegation of improper contact is the magistrate judge's instruction that the complainant “should organize his factual allegations in such a way that this Court (and Defendants) can follow and understand the narrative of the amended complaint.” But that statement simply reflects a generally applicable reason for requiring clarity in pleadings; it provides no basis to suspect the magistrate judge communicated with any parties outside of court. See 28 U.S.C. § 352(b)(1)(A)(iii) (calling for dismissal of judicial 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). Likewise, the unremarkable fact that the magistrate judge attended the same law school as other members of the local legal community does not support an inference of bias. See also 28 U.S.C. § 352(b)(1)(A)(iii) (dismissal of “frivolous” complaints); J.C.U.S. Rule 11(c)(1)(C). The complainant's conclusory assertion that “the actions of the magistrate were highly discriminatory and prejudicial” is unsupported and similarly subject to dismissal. See 28 U.S.C. § 352(b)(1)(A)(iii); J.C.U.S. Rule 11(c)(1)(C), (D).

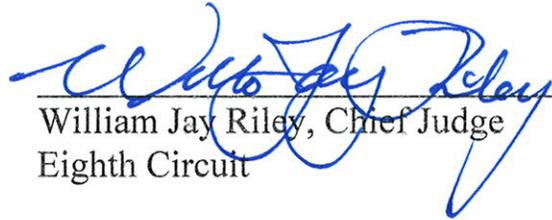
The complainant also takes issue with the magistrate judge's “fail[ure] to recuse herself even though she knew of her relationships with the defendants.” According to the complainant, the magistrate judge thereby “increased the cost of litigating this matter.” This point is not properly raised in a judicial complaint, because it is “directly related to the merits of a decision or procedural ruling”—namely, the magistrate judge's decision to remain on the case. 28 U.S.C. § 352(b)(1)(A)(ii); accord J.C.U.S. Rules 3(h)(3)(A), 11(c)(1)(B).

Finally, the letter the complainant received in response to a complaint he filed about a state judge who is one of the defendants in his lawsuit, which he attached to

his complaint and which he characterizes as “no more than a personal attack on the complainant,” is immaterial to this federal judicial-conduct proceeding. 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 24, 2016



William Jay Riley, Chief Judge
Eighth Circuit