

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP Nos. 08-16-90011/08-16-90012

In re Complaints of John Doe¹

These are judicial complaints filed on February 5, 2016, by a state prisoner against two federal district judges assigned to the complainant's pro se applications for writs of habeas corpus. Other than the district judges' names and the relevant case numbers, the complaints are identical.

The complaints center on the fact that one of the district judges years before served as a state prosecutor in the complainant's trial. The complainant challenges the validity of his conviction and accuses the district judge of "fraudulent unconstitutional [sic] acts done in [the complainant's] case." As a result, according to the complainant, the district judge "was unable to meet his standards expected of a federal Judicial officer" and "could not physically or mentally perform his constitutional duty." The district judge ultimately recused himself in December 2014 and did not rule on the complainant's habeas application, but the complainant asserts the district judge "had hurry [sic] and denied [the complainant's] writ, and next they turned it over to another Judge; but, after he denied it, [the complainant] was prejudice [sic] again, by all other Judges who reviewed it."

The complainant posits a "connect[ion]" between that case and the second district judge's dismissal without prejudice in February 2008 of another habeas

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

application the complainant filed earlier. The complainant declares the second district judge is “also held just as guilty [as the first] for not discharging his constitutional duties.” And the complainant claims the second district judge “deni[ed] [him] access to the court to redress [his] wrongs under the constitution” by instructing the clerk of the district court not to accept additional filings from the complainant in another long-closed habeas case, in which the complainant recently began trying to file new appeals.

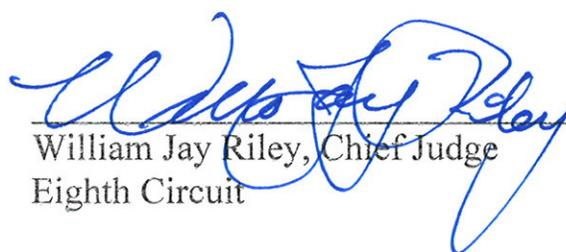
The complainant alleges “one [district judge] is protecting the other because of his unconstitutional criminal acts prosecutering [sic] [the complainant],” based on “some sort of brother hood [sic] loyalty.” The complainant also suggests the district judge who was a prosecutor “has connection [sic] with all the Judges in the . . . district court that’s [sic] been denying [sic] all [his] motions with prejudice not being able to discharge their constitutional duties.” He asks for the two district judges to “be investigated.”

The complainant provides no support for his allegations the district judges are biased against him other than the unfavorable rulings in his cases. As a result, the allegations must be treated as “directly related to the merits of a decision or procedural ruling,” which means they are not properly raised in a judicial-conduct proceeding. 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.) Rules 3(h)(3)(A), 11(c)(1)(B). The complainant’s suggestion that the district judge who had prosecuted him should have recused himself earlier or should not have been on the complainant’s case in the first place is likewise related to the merits of a decision—the district judge’s decision to recuse—and subject to dismissal for the same reason. See J.C.U.S. Rule 3(h)(3)(A); E.C. Rule 1(e). The complainant’s claims the district judges acted to protect each other because of unspecified connections between them are “frivolous” and “lacking sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); accord

J.C.U.S. Rule 11(c)(1)(C), (D). And the complainant's conclusory allegations the district judges are unable to perform their duties are inseparable from his allegations of misconduct, so they must also be dismissed. See J.C.U.S. Rule 11(c)(1)(D); see also 28 U.S.C. § 351(a); J.C.U.S. Rule 3(e) (defining "Disability").

The complaint is dismissed.

February 26, 2016



William Jay Riley, Chief Judge
Eighth Circuit