

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP Nos. 08-16-90015, 08-16-90016, 08-16-90017

In re Complaints of John Doe¹

These are judicial complaints filed on February 12, 2016, by a state prisoner against two United States district judges and one magistrate judge assigned to the complainant's civil rights cases against state prison officials. The allegations in the complaints share some similarities. The complainant alleges that "judges in [the] state [where the complainant is in prison] . . . are depriving 'all' pro-se prisoners of their Constitutionally [sic] protected rights in the courts of the United States." The complainant opines that "[t]his practice is an abuse of office to show favor to [the first district judge's] friends, the state Government, whether [the district judge] is accepting bribes, gifts, or other personal Favors to ensure the state does not lose a case, remains to be seen, but surely there is some means of reward for intentional corruption in the justice system." Raising nearly identical claims against the second district judge and the magistrate judge, the complainant complains of "a good-ole-boy system" where "prisoners are nonpersons."

More specifically, the complainant asserts the first district judge "wrongly dismissed" the complainant's case for failing to state a claim. According to the complainant, the cases cited by the first district judge in the order dismissing the case are "[e]vidence of . . . prejudice." The complainant also claims the defendants in one of his civil cases "were in violation of the criminal laws by intentionally altering legal

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.

documents to present them in a criminal case” and the district judge “is also conspiring to conceal a Felony act in these altered documents that [the district judge] refuses to have corrected.”

The complainant charges the magistrate judge with “recharacteriz[ing] the [complainant’s] claims and dismantl[ing] his case by dismissing two claims and allowing two other claims to proceed.” According to the complainant, the magistrate judge “injected a defense For [the defendants] and even his own personal opinion that was unsupported.” The complainant also challenges the magistrate’s denial of the complainant’s request “to subpoena evidence” and to amend his complaint. In the complainant’s view, the magistrate judge “treated [him] in a [sic] egregious hostile manner through his orders as to oppress [sic] a prisoner and to suppress his speech.” The complainant further declares the magistrate judge “refuse[d] to order correction of the trial transcripts that would prove criminal conduct, and fraud on the Federal court, by state court actors.” The complainant does not elaborate on the nature of this purported fraud. The complainant also challenges the magistrate judge’s decision not to recuse and reassign the case to another judge.

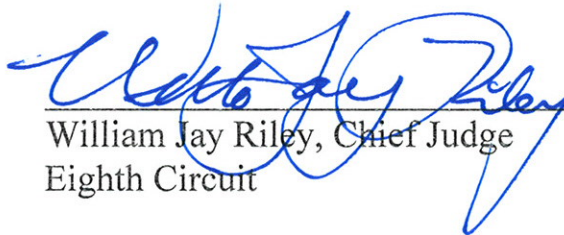
The complainant states the second district judge violated his rights by adopting the magistrate judge’s report and recommendation without elaborating on the complainant’s constitutional rights. The complainant also challenges the second district judge’s decision not to reassign the complainant’s case to a different magistrate judge and his “refus[al] to allow a Certificate of Appealability.” Finally, the complainant challenges the decisions of all three judges not to provide him with appointed counsel.

Because the complainant’s allegations only are supported by the judges’ rulings themselves, they are not properly raised in a judicial complaint. See 28 U.S.C. § 352(b)(1)(A)(ii) (providing for dismissal of complaints “directly related to the merits of a decision or procedural ruling”); Judicial-Conduct and Judicial-Disability

Proceedings of the Judicial Council of the United States (J.C.U.S.) Rules 3(h)(3)(A), 11(c)(1)(B). Although the complainant's allegation that the judges were prejudiced against pro se prisoners does not necessarily implicate the merits of the judges' decisions, because the only support for the complainant's allegations are the judges' rulings themselves, these allegations also must be dismissed as merits-related. See J.C.U.S. Rule 3(h)(3)(A). The complainant's wholly unsupported assertions that the judges were hostile toward him and are "accepting bribes, gifts, or other personal favors" and are part of "a good-ole-boy system" are "frivolous" and also "lack[] 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). Finally, to the extent the complainant challenges the actions of other individuals involved in his cases who are not judges, such claims are not cognizable in a judicial complaint. See 28 U.S.C. § 351(a), (d)(1); J.C.U.S. Rule 4; E.C. Rule 1(c).

The complaint is dismissed.

March 10, 2015



William Jay Riley, Chief Judge
Eighth Circuit