

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-16-90029

In re Complaint of John Doe¹

This is a judicial complaint filed on April 5, 2016 by a pro se state parolee against the United States magistrate judge assigned to review his application for a writ of habeas corpus. The complainant asserts the magistrate judge “engaged into [sic] conduct prejudicial to the effective and expeditious administration [sic] of the business of the Court. That while performing Judicial Functions denied [sic] Constitutional and Civil rights that are not a judicial function [sic] and conflicted with any definition of a judicial function.” The complainant contends the magistrate judge “failed to follow simple guidelines of her post which denied [the complainant] the equal protection of the laws” and “acted without jurisdiction to the subject matter and person [sic] because she acted as a trespasser of the law and did not follow the law.” The complainant proclaims the magistrate judge’s “actions fell outside the boundaries of her job description and caused real injury or wrong.”

The complainant asserts the magistrate judge “did not follow the ‘Prison Mailbox Rule,’” which the Eighth Circuit has explained provides that “a pro se pleading is deemed filed upon deposit in the prison mail system prior to the expiration of the filing deadline.” United States v. Harrison, 469 F.3d 1216, 1217 (8th Cir. 2006). The complainant opines “[t]he ‘Prison Mailbox Rule’ place[d] the [complainant] in Conflict of Interest Laws [sic] and Corruption in the administration

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.

of justice and establishes abuse of the legal process.” The complainant neither explains how the magistrate judge’s actions purportedly violated this rule, nor identifies the filing or filings to which the complainant is referring.

The complainant next contends the magistrate judge violated his rights because the magistrate judge “failed to follow the simple guidelines of the law governing 180-Day Writs.” The complainant explains “this case involves a 180-Day Writ in State Court where the warrant/detainer has been withdrawn. The [complainant] refers to (state decisis),’ [sic] which is to stand by decided matters and she allowed a continuous injury or wrong.” It is possible the complainant is referring to Missouri’s Uniform Mandatory Disposition of Detainers law, which provides that an “indictment, information or complaint shall be brought to trial” “[w]ithin one hundred eighty days after the receipt of the request and certificate” absent “good cause shown.” See Mo. Rev. Stat. § 217.460.

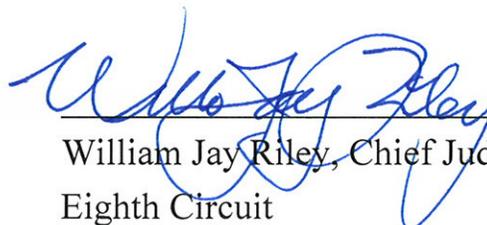
The complainant also takes issue with the magistrate judge’s “state[ment] that there is no evidence in Missouri Courts [sic] where the Sheriff failed to provide the [complainant] access to the Court which is an establishment of Contempt of Court on him [sic] and the Circuit Court judge placed a ‘warrant for Arrest’ on [the complainant] for ‘Failure to Appear.’” The complainant declares the magistrate judge “‘obstructed justice’” and “aided [sic] and abetted Police Misconduct in her actions to assist the officials in misconduct.” Finally, the complainant alleges the magistrate judge was “not wholly free, impartial, and independent and acted as counsel in the case.”

Because it is impossible to determine from the complaint the factual bases underlying most of the complainant’s conclusory allegations, the complainant has failed to proffer “sufficient evidence to raise an inference that misconduct has occurred.” See 28 U.S.C. § 352(b)(1)(A)(iii); accord Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule

11(c)(1)(D). Complaints challenging the magistrate judge’s rulings themselves must be dismissed because challenges “directly related to the merits of a [judge’s] decision or procedural ruling” are not cognizable in a judicial complaint. 28 U.S.C. § 352(b)(1)(A)(ii); accord J.C.U.S. Rules 3(h)(3)(A), 11(c)(1)(B). Although allegations of bias or other improper motive are not necessarily merits related, such allegations must be dismissed as merits related when, as here, the only support for the allegations is the merits of the judge’s rulings. See J.C.U.S. Rule 3(h)(3)(A). Finally, to the extent the complainant challenges the actions of the state court, the sheriff, the police, or other “officials,” such grievances are not cognizable in a judicial complaint because the judicial complaint procedure is 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).

The complaint is dismissed.

April 21, 2016



William Jay Riley, Chief Judge
Eighth Circuit