

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-16-90054

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In re Complaint of John Doe<sup>1</sup>

This is a judicial complaint filed on July 25, 2016 by an inmate and pro se civil litigant against the United States district judge who denied the complainant's petition for a writ of habeas corpus on the grounds the complainant failed to secure permission from the court of appeals to file a successive petition.

The complainant explains that “[t]his Complaint involves the court below deliberately treating a writ of habeas corpus as one seeking parole release when in fact it (and others) involve the release and subsequent discharge from supervision after 5 years of a [state] prisoner.” The complainant claims the district judge “refuses to address [the complainant’s] writs for good conduct release” and instead “deliberately treats good conduct release . . . as ‘parole’ so that he can apply discretionary parole release law instead of good conduct law as good conduct is a protected liberty interest . . . , while parole release is wholly discretionary under federal constitutional law.”

The complainant refers extensively to a decades-old Eighth Circuit decision in his case, asserting that the state “Attorney General’s Office had in fact committed ‘a fraud upon this Court’ . . . on the key controlling issues in the case, found by this Court were either concocted after [the complainant’s] entitlement to a discharge had

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<sup>1</sup>Under 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.

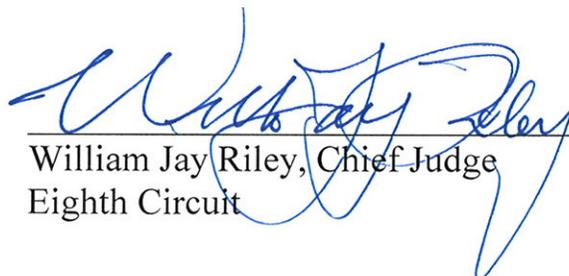
passed or was an outright falsehood by the State that the Court then based its decision to deny the discharge.” The complainant reasons that “by not addressing good conduct release or the ‘Fraud On The Court’ in [the Eighth Circuit case, the district judge] in effect is denying [the complainant] access to the courts in violation of the 1st and 14th Amendments to the U.S. Constitution.”

This complaint must be dismissed because the complainant’s allegations are “directly related to the merits of a decision or procedural ruling,” specifically, the district judge’s denial of the complainant’s petition for a writ of habeas corpus. See 28 U.S.C. § 352(b)(1)(A)(ii); 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 has not indicated any non-merits-related reason why he believes the district judge complained of “engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts” or “is unable to discharge all the duties of office by reason of mental or physical disability.” 28 U.S.C. § 351(a). The complainant’s assertions thus “lack[] sufficient evidence to raise an inference that misconduct has occurred” and are “frivolous.” 28 U.S.C. § 352(b)(1)(A)(iii); J.C.U.S. Rules 11(c)(1)(C), (D).

To the extent the complainant makes charges against state officials or others who are not federal judges, the charges must be dismissed because this judicial complaint process only addresses the conduct of 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.

August 3, 2016

  
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William Jay Riley, Chief Judge  
Eighth Circuit