

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-16-90056

In re Complaint of John Doe¹

This is a judicial complaint filed on August 25, 2016, by a state inmate against the United States magistrate judge who is presiding over the complainant's ongoing civil rights lawsuit concerning his treatment for a health condition and who ordered the complainant to sign a Health Insurance Portability and Accountability Act release.

According to the complainant, the magistrate judge (1) unlawfully ordered complainant to sign the release of his medical records; (2) failed to deny a motion for summary judgment on the grounds that the defense submitted a perjured declaration; (3) took "no action against" the defense attorney, who complainant alleges failed to comply with requests for discovery; and (4) issued an order before complainant's allotted time to file a responsive pleading had expired. The complainant also accuses the magistrate judge of "conspiring with [the defense attorney] and the defendants to force [the complainant] under duress . . . to waive his constitutional rights," "abusing her power and authority," failing "to properly execute her duties" in a "clearly egregious" and "hostile" manner, and exhibiting "prejudice against complainants [sic] who are prisoner litigants who bring suits against prison officials who fail to or violate prisoner civil rights." Complainant concludes the magistrate judge should be removed from his civil case and removed from the bench.

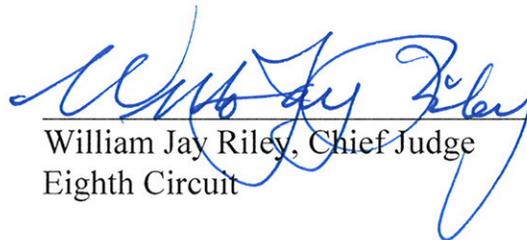
The complainant's primary grievances are not cognizable in a judicial complaint and must be dismissed because they are "directly related to the merits of

¹Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit (E.C.), the names of the complainant and the judge complained about are to remain confidential, except in special circumstances not present here.

a decision or procedural ruling.” 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). “An allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse, without more, is merits-related.” J.C.U.S. Rule 3(h)(3)(A). The allegations of improper conduct “lack[] sufficient evidence to raise an inference that misconduct has occurred” and are “frivolous.” 28 U.S.C. § 352(b)(1)(A)(iii); accord J.C.U.S. Rule 11(c)(1)(C), (D). Finally, the complainant’s accusations against the attorneys in this case must be dismissed because the 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.

September 27, 2016


William Jay Riley, Chief Judge
Eighth Circuit